

REPORT for  
Defra

# Local Authority Statutory Nuisance Survey 2011

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Registered & Head Office Address: Barnards, Station Road, Horsted Keynes, West Sussex, RH17 7ED  
Registered in England Company number: 3305849. VAT number: 683 3138 28



**Author:** Robert Lockwood

**Contributor:** Tony Selwyn

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## 1. EXECUTIVE SUMMARY

Under Part III of the Environmental Protection Act 1990 (EPA), a local authority has a duty to inspect its area from time to time to detect any statutory nuisances and to take such steps as are reasonably practicable to investigate any complaint of a statutory nuisance made by a person living within its area. Statutory nuisances (under relevant conditions) include Odour, Dust, Smoke, Artificial Light, Insects, Accumulations and Deposits, Fumes or Gases, Noise, Premises and Animals which are prejudicial to health or a nuisance.

In order to better develop and prioritise Government policy on statutory nuisance, a survey of local authorities across England was undertaken to determine the annual number of complaints of statutory nuisance<sup>1</sup> received. One hundred and nineteen (119) local authorities participated in the survey representing approximately 37% of local authorities and who in turn represent approximately 37% of the population in England.

In addition to determining annual numbers of complaints the survey aimed to identify information on the various sources of those complaints and the number of abatement notices served by the local authorities as a result of their investigations.

The main findings are:

- Complaints about **accumulations and deposits** accounted for the greatest proportion of complaints received out of all the statutory nuisances surveyed; the annualised total<sup>2</sup> for the sample population being 23,630 complaints.
- Local authorities received a significant number of **smoke** complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 14,127 complaints.
- Domestic bonfires accounted for the largest proportion of **smoke** complaints from an individual source; the annualised total for the sub-sample population being 5,830 complaints.
- Local authorities received a significant number of **odour** complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 6,928 complaints.
- Sewage Treatment Work accounted for the largest proportion of **odour** complaints from an individual source; the annualised total for the sub-sample population being 1,275 complaints.
- Local authorities received a significant number of complaints about '**premises in such a state**' in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 4,232 complaints.

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<sup>1</sup> Noise and Artificial Light were not included in the survey because the Chartered Institute of Environmental Health (CIEH) undertakes an annual noise survey and Defra published 'An Investigation into Artificial Light Nuisance Complaints and Associated Guidance' in November 2010  
<http://www.defra.gov.uk/environment/quality/noise/artificial-light-pollution/>

<sup>2</sup> Yearly figures averaged over 3 years.



- Local authorities received a notable number of complaints about **fumes and gases** from domestic dwellings; the annualised total for the sample population being 3,010 complaints.
- Approximately 4% of investigations across all categories of statutory nuisances resulted in the service of an **abatement notice**. However, feedback suggests many other complaints are resolved informally.



## 2. INTRODUCTION

### 2.1. Background

Under Part III of the Environmental Protection Act 1990, a local authority has a duty to inspect its area from time to time to detect any statutory nuisances and to take such steps as are reasonably practicable to investigate any complaint of a statutory nuisance made by a person living within its area.

Where a local authority is satisfied of the existence or of the likely occurrence or recurrence of statutory nuisance, it must serve an abatement notice. This may be served upon the person responsible for the nuisance, the owner of the premises where the nuisance arises from any defect of a structural character, or the owner or occupier of the premises where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred.

Statutory nuisances are set out under section 79(1) EPA and are detailed below:

- any premises in such a state as to be prejudicial to health or a nuisance;
- smoke emitted from premises so as to be prejudicial to health or a nuisance;
- fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;
- any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;
- any accumulation or deposit which is prejudicial to health or a nuisance;
- any animal kept in such a place or manner as to be prejudicial to health or a nuisance;
- any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;
- artificial light emitted from premises so as to be prejudicial to health or a nuisance;
- noise emitted from premises so as to be prejudicial to health or a nuisance;
- noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street; and
- any other matter declared by any enactment to be a statutory nuisance;

#### 2.1.1. Reasons for the Survey

In developing Government policy on statutory nuisances specified under section 79 of the Environmental Protection Act 1990 evidence is needed regarding the numbers and sources of complaints regarding potential nuisances and the way in which local authorities address those complaints.

The last statutory nuisance survey was carried out in 2000 by the CIEH<sup>3</sup>. Due to the age of the 2000 survey it was considered that, to better develop and prioritise policy associated with the statutory nuisance regime, more reliable and current evidence was required.

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<sup>3</sup> The CIEH carry out an annual survey specific to noise complaints only



## 2.2. Aim and Objectives

The aim of the survey was to collect complaint statistics from local authorities in England on the following statutory nuisances<sup>4</sup>:

- Odour;
- Insects;
- Dust;
- Smoke;
- Steam;
- Accumulation or Deposit;
- Fumes or Gases;
- Premises;
- Animals kept in such a place or manner; and
- Any other matter declared by enactment to be statutory nuisance.

The primary objective of the project was to determine the annual number of complaints about each of these statutory nuisances received by a representative sample of local authorities in England over the three years 2010, 2009 and 2008 (calendar year or financial year).

The secondary objective was to determine the source of complaint and the number of abatement notices served.

## 2.3. Methodology

### 2.3.1. Questionnaire Design

The questionnaire was primarily designed to elicit the annual number of complaints received by local authorities about each of the statutory nuisances over a 3 year period. Secondly, to apportion these complaints to a particular source and the number of abatement notices served under each type of statutory nuisance.

The scope and structure of the questionnaire was aimed at obtaining the most useful information possible, without over-burdening local authorities. In so doing, it was recognised that, given this type information had not been collected for many years, local authorities may not be able to extract more detailed data from their information systems.

The questionnaire was trialled on a small pilot group of ten local authorities prior to wider distribution, to determine ease of completion, clarity of the questions and an indication of the time required to complete the questionnaire. This resulted in minor amendments to the questionnaire.

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<sup>4</sup> Statistics already exist for noise and artificial light.



### 2.3.2. Sampling Strategy

The aim of the survey was to obtain representative information on the number of complaints about relevant statutory nuisances received by local authorities in England. For the purpose of the survey, a sample size of one hundred (100) local authority responses was deemed to be the minimum target to obtain a representative data set for the primary objective of the total number of complaints for each category of statutory nuisance. (A similar response rate for source data was desirable but considered unlikely, given the constraints of local authority information systems and the limited time available to retrieve such information).

To ensure that the randomly selected local authorities were as representative as possible, due consideration was given to the sample population size across levels of rurality i.e. rural, semi-rural and urban, within each region i.e. North, Midlands, South. This categorisation of local authorities was achieved by reference to Defra's "Classification of Local Authority Districts and Unitary Authorities in England"<sup>5</sup>

### 2.3.3. Data Collection

Local authorities were initially contacted by telephone to request participation in the survey. The survey was uploaded electronically to an online survey tool and, those that had agreed to participate, were emailed the link to the survey and asked to complete it within a period of two weeks from receipt.

## 2.4. Response Rate

The total number of responses received was 119 out of 150 local authorities which were sent the survey – a response rate of 79%.

The survey largely achieved the desired proportion of responses from rural, semi-rural and urban local authorities across England.

### 2.4.1. Qualitative Responses

A significant number of comments were received from respondents covering both generic aspects of the statutory nuisance regime and specific nuisances. The main themes of the comments have been reported in each of the relevant sections.

## 2.5. Analysis

For each local authority, the three years of complaints data provided were averaged to calculate annualised figures for each local authority. Headline results of the survey include:

- total number of complaints for each category of statutory nuisance;
- total number of complaints by source for some statutory nuisances; and
- the number of abatement notices served for each category of statutory nuisance.

The annualised figures were used for the following analysis:

- profile of complaints across categories of statutory nuisance;
- sources of odour, dust, smoke and insect complaints; and

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<sup>5</sup> <http://www.defra.gov.uk/evidence/statistics/rural/rural-definition.htm>



- comparison of indicative national figures with those from ten years ago.

In addition, in order to compensate for the range of population sizes across local authorities, analysis was carried out 'per million population'.

Analysis of 'average number of complaints per local authority' was also undertaken although, given the variability in the size of populations between local authorities, the 'per million population' analysis was deemed more informative.



### 3. RESULTS

#### 3.1. Total Number of Complaints of the Sample Population

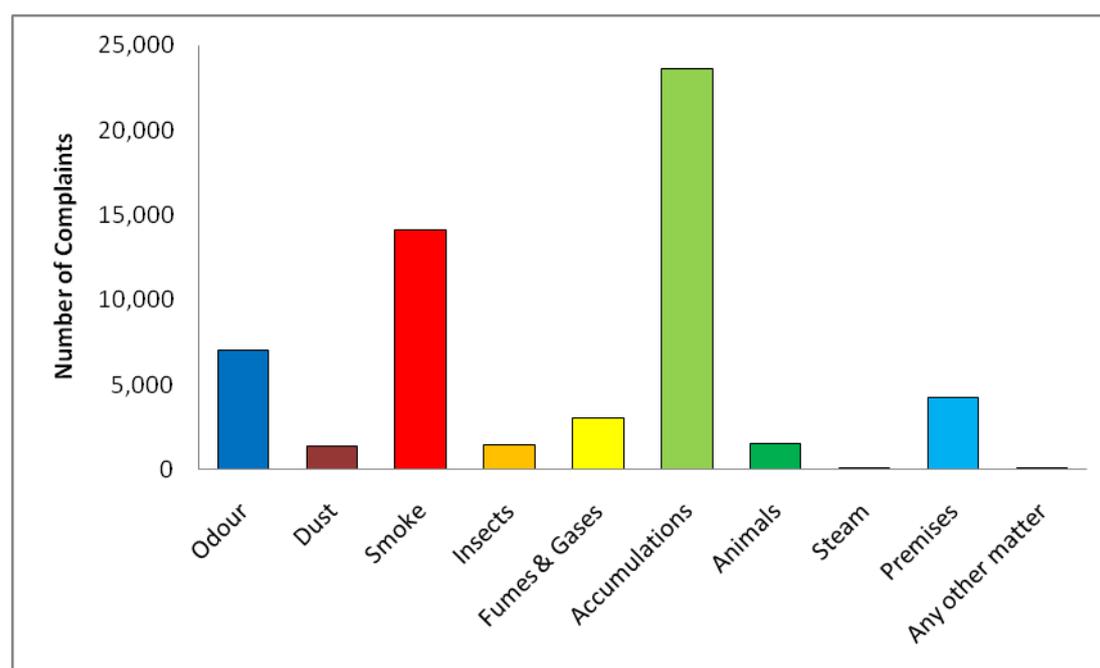
From the annualised number of complaints for the sample population, the profile of complaints across the categories of statutory nuisance is characterised by the large number of complaints received by local authorities about accumulations and deposits.

Local authorities received nearly twice as many accumulation complaints than smoke and approximately seventeen times more than dust, animals and insects. See also **Appendix 2** for summary table of 3 years annualised data.

**Table 3.1 - Total Number of Complaints for the Sample Population**

Category of Statutory Nuisance	Total Complaints	Percentage of Total Number of Complaints (%)
Odour	6,928	12.3
Dust	1,377	2.4
Smoke	14,127	25.1
Insects	1,471	2.6
Fumes & Gases	3,010	5.3
Accumulations	23,630	41.9
Animals	1,502	2.7
Steam	10	0.0
Premises	4,232	7.5
Any other matter	47	0.1

**Figure 3.1 - Total Number of Complaints for the Sample Population**





### 3.2. Number of Complaints per Million Population

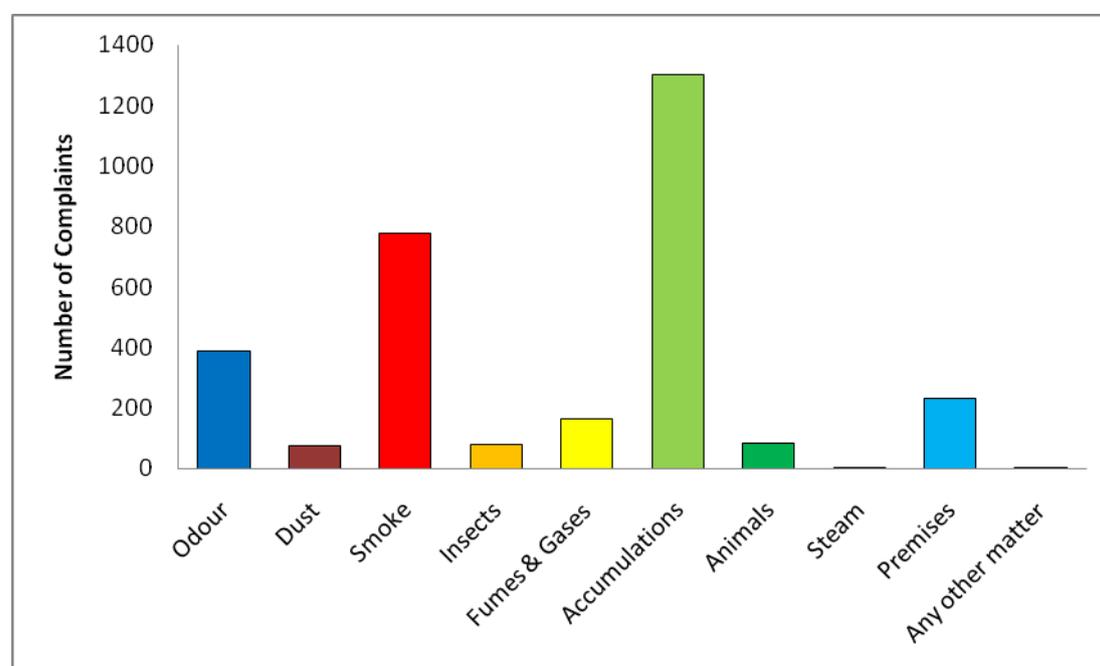
The number of complaints per million profile is similar, with a large number of complaints received by local authorities about accumulations and deposits.

Local authorities received nearly twice as many accumulation complaints than smoke and approximately seventeen times more than dust, animals and insects.

**Table 3.2 - Number of Complaints per Million Population**

Category of Statutory Nuisance	Number of complaints per million
Odour	389
Dust	77
Smoke	793
Insects	83
Fumes & Gases	169
Accumulations	1,327
Animals	84
Steam	1
Premises	238
Any other matter	3

**Figure 3.2 - Number of Complaints per Million Population**





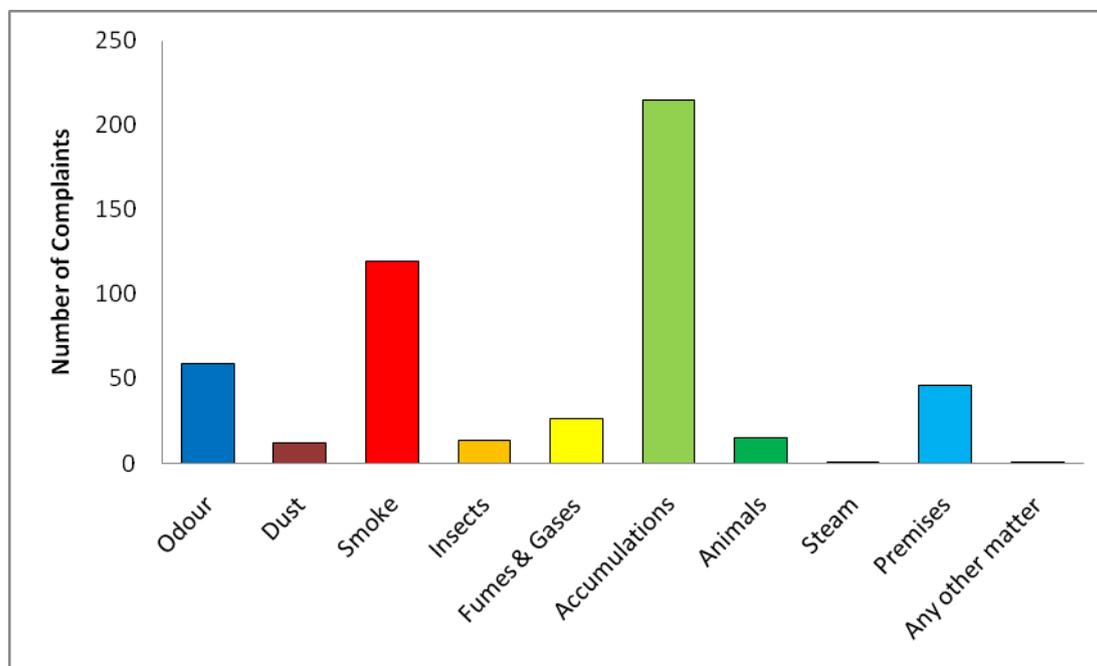
### 3.3. Average Number of Complaints per Local Authority

Again, the average number of complaints per local authority profile is similar. Local authorities received nearly twice as many accumulation complaints than smoke and approximately eighteen times more than dust, animals and insects.

**Table 3.3 - Average Number of Complaints per Local Authority**

Category of Statutory Nuisance	Number of Complaints per Local Authority
Odour	59
Dust	12
Smoke	120
Insects	13
Fumes & Gases	26
Accumulations	215
Animals	15
Steam	0
Premises	46
Any other matter	1

**Figure 3.3 - Average Number of Complaints per Local Authority**





### 3.4. Analysis of the Number of Abatement Notice Served

Once a local authority has formed the view that a statutory nuisance exists, the local authority is under a duty to serve an abatement notice. Section 80(1) EPA 1990 provides that, “Where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur in the area of the authority, the local authority shall serve a notice....”

There is no authority for the view that the service of an abatement notice should be delayed to allow sufficient time for alternative solutions to be explored; the trigger is the decision that the odour, smoke etc. amounts to a statutory nuisance. However, feedback from the local authorities suggests informal means are often used to successfully resolve complaints and therefore the number of abatement notices does not reflect the number of valid complaints.

This section analyses the level of enforcement activity under each of the categories of statutory nuisance in terms of the total number of notices served for the sample population, the number served per million population and the average number served per local authority.

It should also be remembered that, for some statutory nuisances e.g. odour, there may be many complaints for the same incident.

#### 3.4.1. Total Number of Abatement Notices Served

Compared to the total annualised number of complaints received by the surveyed local authorities of 56,467 across all statutory nuisances, 2,300 abatement notices were served. Therefore, approximately 4% of investigations resulted in the service of an abatement notice.

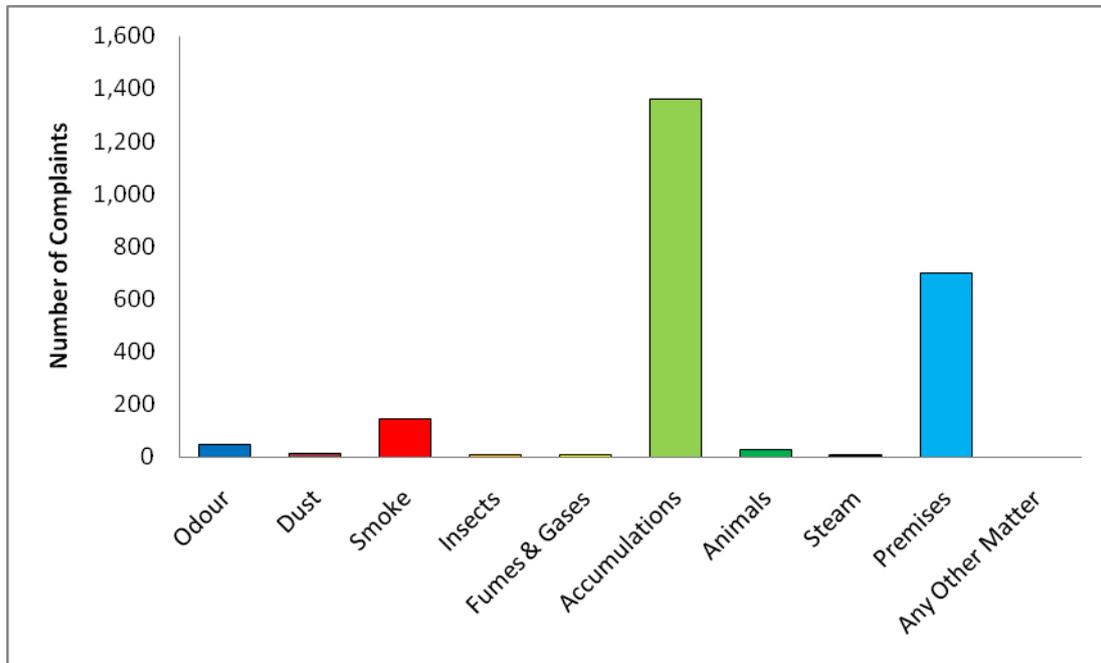
Comparing the number of abatement notices served under each category of statutory nuisance as a proportion of the total number of complaints served, the highest percentage are served on ‘premises in such a state’ at approximately 16%. Just under 6% of complaints received by local authorities about accumulations resulted in the service of an abatement notice. Under the other categories of statutory nuisance, approximately 1% or less of investigations resulted in the service of an abatement notice.

**Table 3.4 - Total Number of Abatement Notices Served**

Category of Statutory Nuisance	Total Number of Abatement Notices served	Percentage of total Number of Complaints (%)
Odour	47	0.7
Dust	11	0.8
Smoke	145	1.0
Insects	6	0.4
Fumes & Gases	6	0.2
Accumulations	1,360	5.7
Animals	28	1.9
Steam	1	6.5
Premises	698	16.5



**Figure 3.4 - Total Number of Abatement Notices Served**





### 3.4.2. Number of Abatement Notices Served per Million Population

**Table 3.5 - Number of Notices Served per Million Population**

Category of Statutory Nuisance	Number of Abatement Notices served	Percentage of total Number of Complaints (%)
Odour	3	0.7
Dust	1	0.8
Smoke	8	1.0
Insects	0	0.4
Fumes & Gases	1	0.4
Accumulations	75	5.8
Animals	2	1.9
Steam	0	6.5
Premises	38	16.5

### 3.4.3. Average Number of Abatement Notices Served per Local Authority

**Table 3.6 - Average Number of Abatement Notices Served per Local Authority**

Category of Statutory Nuisance	Number of Abatement Notices Served	Percentage of total Number of Complaints (%)
Odour	1	0.9
Dust	0	1.0
Smoke	2	1.3
Insects	0	0.5
Fumes & Gases	0	0.5
Accumulations	14	6.7
Animals	0	2.1
Steam	0	6.9
Premises	8	16.9

## 3.5. Generic Comments

The last section of the questionnaire requested comments or general views on the local authority's experience of using the statutory nuisance regime. A number of comments were received on generic aspects of the statutory nuisance regime and these are summarised below.

- A number of local authorities commented on the limitation of 79(1)(d) to address, in particular, dust and odours from industrial, trade or business premises only and not domestic premises.
- The use of informal means through negotiation and persuasion in the majority of investigations as opposed to the service of abatement notices is a common approach.



- The usefulness of the 7 day deferral period available for noise nuisance investigations was mentioned.
- The utility of fixed penalty notices used under other legislation was expressed.
- The provision of further guidance, adaptation of existing guidance or provision of case law updates that impact on the statutory nuisance was suggested.
- Comments were received about the statutory nuisance regime being predominantly complaint led rather than inspection led.
- A number of generally favourable comments were received about the statutory nuisance regime.

### 3.6. Main Findings

#### Accumulation and Deposits

Complaints about accumulations and deposits accounted for the greatest proportion of complaints out of the statutory nuisances surveyed; the annualised total for the sample population being 23,630 complaints.

#### Odours

Local authorities received a significant number of odour complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 6,928 complaints.

#### Dust

Local authorities received a notable number of dust complaints each year; the annualised total for the sample population being 1,377 complaints.

#### Smoke

Local authorities received a significant number of smoke complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 14,127 complaints.

#### Insects

Local authorities received a notable number of insect complaints; the annualised total for the sample population being 1,471 complaints.

#### Animals

Local authorities received a notable number of complaints each year about animals kept in such a place or manner; the annualised total for the sample population being 1,502 complaints.

#### Premises

Local authorities received a significant number of complaints about premises in such a state in comparison to the other statutory nuisances surveyed, the annualised total for the sample population being 4,232 complaints.



### **Fumes and Gases**

Local authorities received a notable number of complaints about fumes and gases from domestic dwellings; the annualised total for the sample population being 3,010 complaints.

### **Steam**

Local authorities reported negligible numbers of complaints under the steam provision; the annualised total for the sample population being 10 complaints.

### **Any Other Matter**

Local authorities reported very few complaints under the 'any other matter' provision; the annualised total for the sample for the sample population being 47 complaints.

### **Abatement Notices**

Approximately 4% of investigations across all categories of statutory nuisances resulted in the service of an abatement notice.



## 4. ODOUR

### 4.1. Introduction

Odour (smell) falls within the statutory nuisance regime by virtue of Section 79 (1)(d) EPA which states “*Any [ ] smell [ ] arising on industrial, trade or business premises and being prejudicial to health or a nuisance*”.

This provision is confined to industrial, trade or business premises and has no application where the odour source is from residential premises.

Local authorities were asked to provide the number of complaints received about specific sources which, based on anecdotal evidence, were assumed to be the main sources of odour complaint. These included:

- sewage treatment works;
- agricultural activities (sewage sludge and slurry spreading and farm premises);
- commercial kitchens; and
- waste sites.

An ‘other’ category was also specified to capture complaints about miscellaneous sources.

### 4.2. Number of Odour Complaints by Source of the Sample Population

Local authorities received a significant number of odour complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 6,928 complaints.

This section analyses the annualised number of odour complaints by source received by local authorities that were able to provide a breakdown. Therefore, the figures may not match the sample total detailed in **section 3**.

From the annualised number of odour complaints for the sample population, odour from sewage treatment works generated the largest number of complaints from an individual source, more than double any other. The combined number of complaints about agricultural activities such as sewage sludge and slurry spreading and odours from farm premises also accounted for a significant proportion of the complaints received. A notable number of complaints were also received about commercial kitchens and waste sites.

Other sources are made up of a very wide variety of industrial trade and business premises; a summary of the reported range of ‘other’ sources of odour complaint can be found in **Appendix 3**.

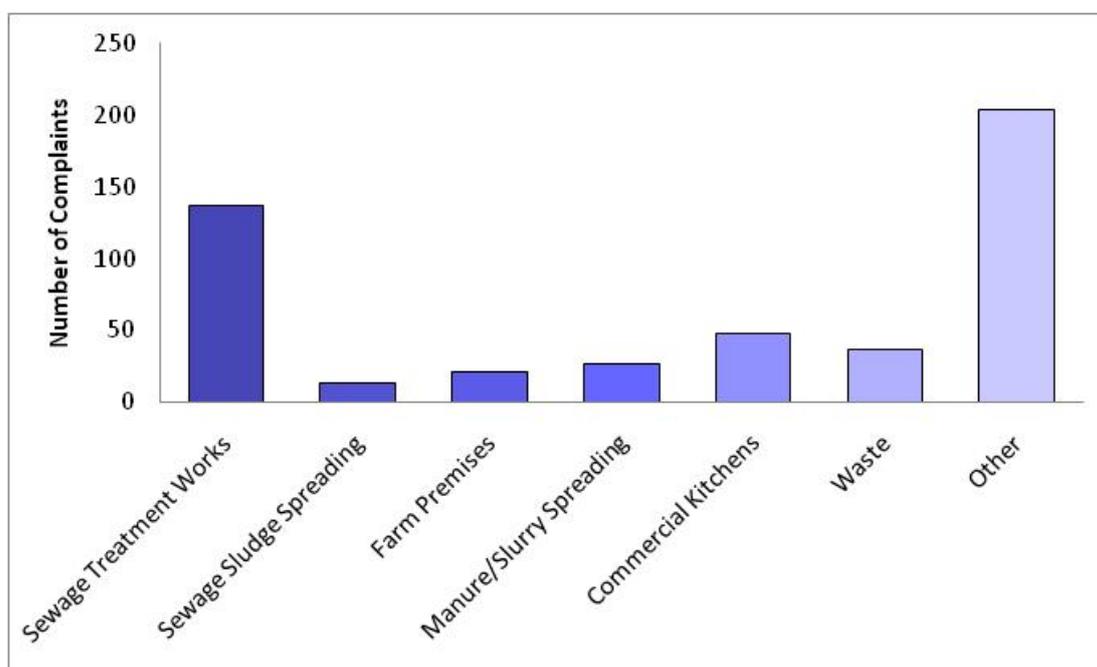
Analysis of individual sources is discussed in further detail later in this section.



**Table 4.1 - Number of Odour Complaints by Source**

Source of Odour Complaint	% of Total Number of Complaints	Total Number of complaints	Number of Complaints per Million	Complaints per Local Authority
Sewage Treatment Works	28	1,275	137	20
Sewage Sludge Spreading	3	125	13	2
Farm Premises	4	196	21	3
Manure/Slurry Spreading	6	251	27	4
Commercial Kitchens	10	441	47	7
Waste	8	344	37	6
Other	42	1,894	203	31
<b>Total Sub-sample</b>		4,526		

**Figure 4.1 - Number of Complaints by Source per Million Population**



## 4.3. Sources of Odour Complaint

### 4.3.1. Sewage Treatment Works

Odours from sewage treatment works may arise from a variety of sources on site such as inlet works, primary settlement tanks, during secondary treatment and particularly from sludge treatment, transfer and storage.

Sewage treatment works make up the largest proportion of odour complaints for an individual source. Sewage treatment works have the potential to give rise to significant numbers of complaints with some local authorities reporting annual numbers of complaints in the hundreds about individual STWs.



### 4.3.2. Agricultural Activities

Agricultural activities such as sludge and slurry spreading and other activities on farm premises are another notable source of odour complaints. One local authority consistently received complaints about slurry spreading totalling 45 complaints in 2010, 55 complaints in 2009 and 48 complaints in 2008.

Another local authority (not included in the overall numbers of complaints under the slurry spreading category for statistical reasons) received complaints about odour from manure and slurry spreading totalling 281 complaints in 2009 and 117 complaints in 2010. This illustrates the potential for significant numbers of complaints that can be generated by agricultural spreading activities.

### 4.3.3. Waste Sites

Waste sites are regulated under the Environmental Permitting Regulations 2010. The Environment Agency is the primary regulatory body for waste operations requiring an environmental permit or a registered exemption. Where a local authority detects a statutory nuisance from, or receives a complaint of statutory nuisance arising from a waste site, it will need to consider the provisions of section 79(10)<sup>6</sup> when discharging its duties under the EPA 1990.

Section 79(10), EPA 1990, as amended and relevant to England and Wales, states:

*“A local authority shall not without the consent of the Secretary of State institute summary proceedings under this Part in respect of a nuisance falling within paragraph (b), (d), (e), (fb) or (g) of subsection (1) above if proceedings in respect thereof might be instituted under Part I or under regulations under section 2 of the Pollution Prevention and Control Act 1999.”*

From the results of the survey, local authorities are receiving complaints about waste sites regulated under an environmental permit or registered exemptions.

### 4.3.4. Other Sources

From the figures for ‘other’ odour sources, it is evident that they make up a significant proportion of the total number of the odour complaints received by local authorities. However, the reported range of industrial, trade and business premises is extensive and it has not been possible to apportion numbers of complaints.

However, a significant number of complaints are attributable to two animal rendering regulated facilities permitted under the Environmental Permitting Regulations 2010. One particular rendering facility gave rise to complaints as follows. 2010 - 629 complaints, 2009 - 539 complaints, 2008 - 90 complaints. The other rendering facility gave rise to the following numbers of complaints 2010 – 142 complaints, 2009 – 162 complaints, 2008 – 140 complaints. Such complaints would typically be investigated under the provisions of the Environmental Permitting Regulations for breach of permit condition rather than the statutory nuisance regime.

A summary of reported premises categorised under the ‘other’ category can be found in **Appendix 3**.

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<sup>6</sup> EPR Guidance – Statutory Nuisance <http://www.defra.gov.uk/environment/policy/permits/documents/ep2010stat-nuisance.pdf>



## 4.4. Comments

- A large number of comments were received from local authorities about the complexities of odour investigations, the length of time to investigate and the difficulty in witnessing odour nuisance.
- A number of comments were received specific to the issue of slurry and sewage sludge spreading suggesting tighter regulation of chicken litter and pig slurry spreading, the difficulty of investigating and enforcing odour nuisance cases but, at the same time, the tolerance of rural communities of such practices.
- A number of comments were received about the complexities of investigating odour complaints from sewage treatment works.
- A number of comments were received regarding a lack of clarity about enforcement responsibilities between the Environment Agency and local authorities with regards to regulated facilities under the Environmental Permitting Regulations. These include waste sites and sewage treatment works where the waste exemptions are regulated by the EA and odour from the waste water treatment is regulated by local authorities.

## 4.5. Main Findings

- Sewage treatment works accounted for the largest proportion of odour complaints from an individual source; the annualised total for the sub-sample population being 1,275 complaints.
- Individual STWs have the potential to generate significant numbers of complaints.
- Significant numbers of complaints are received by local authorities about agricultural activities, (572 complaints) commercial kitchens (441 complaints) and waste sites (344 complaints) based on the annualised total for the sub-sample population.



## 5. DUST

### 5.1. Introduction

Dust falls within the statutory nuisance regime by virtue of Section 79 (1)(d) EPA which states “*Any dust [ ] arising on industrial, trade or business premises and being prejudicial to health or a nuisance*”. Dust does not include dust emitted from chimney as an ingredient of smoke.

This provision is confined to industrial, trade or business premises and has no application where the dust source is from residential premises.

Local authorities were asked to provide the number of complaints received about specific sources which, based on anecdotal evidence, were expected to be the main sources of dust complaint. These included:

- construction sites;
- waste sites;
- agricultural land; and
- mineral excavations.

An ‘other’ category was also specified to capture complaints about miscellaneous sources.

### 5.2. Number of Dust Complaints by Source

Local authorities received a notable number of dust complaints each year with the annualised total for the sample population being 1,377 complaints.

This section analyses the annualised number of dust complaints by source received local authorities that were able to provide a breakdown. Therefore, the figures may not match the sample total detailed in **Section 3**.

From the annualised number of dust complaints for the sub-sample population, dust from construction sites generated the largest number of complaints from an individual source, more than five times any other individual source. A number of complaints were also received about dust from waste sites.

Other sources are made up of a very wide variety of industrial, trade and business premises; a summary of the reported range of ‘other’ sources of dust complaint can be found in **Appendix 3**.

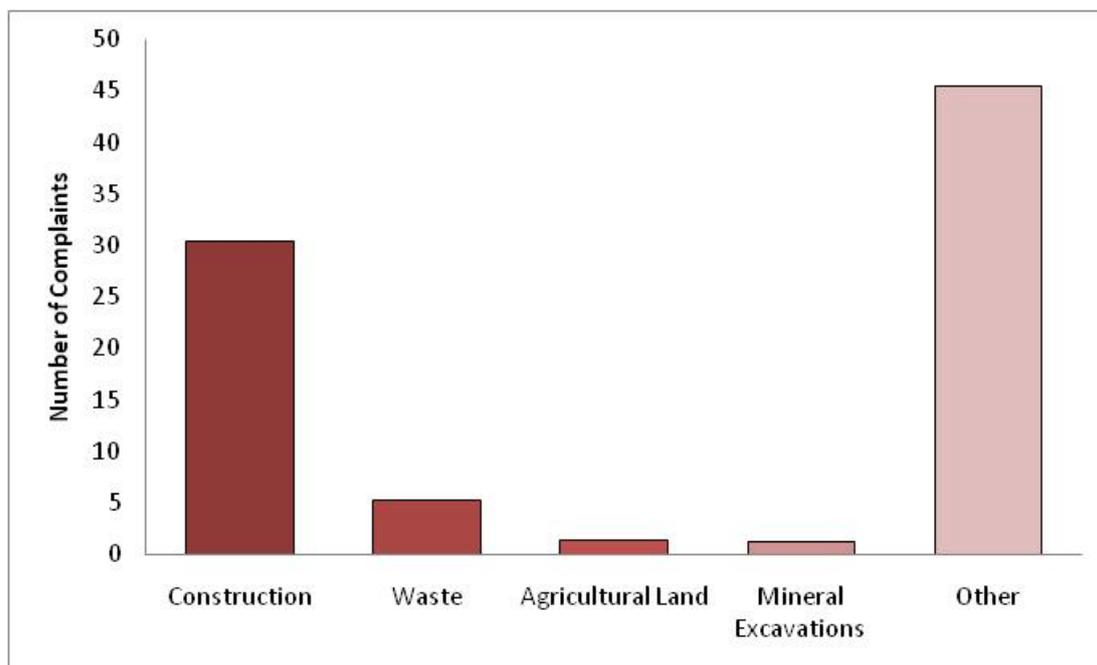
Analysis of some of the individual sources is discussed in further detail later in this section.



**Table 5.1 - Number of Dust Complaints by Source**

Source of Dust Complaint	Percentage of Total Number of Complaints (%)	Total Number of complaints	Complaints per Million	Number of Complaints per Local Authority
Construction	36	324	30	4
Waste	6	56	5	1
Agricultural Land	2	14	1	0
Mineral Excavations	1	13	1	0
Other	54	486	46	7
<b>Total Sub-sample</b>		894		

**Figure 5.1 - Number of Dust Complaints by Source per Million Population**



### 5.3. Sources of Dust Complaints

#### 5.3.1. Construction Sites

Construction sites accounted for the largest proportion of dust complaints from an individual source; the annualised total for the sub-sample population being 321 complaints.

Construction activities, in particular demolition works, can have significant dust impacts on the local environment if not carefully managed. Activities such as the demolition of buildings, the movement of vehicles and materials, sand blasting or stone cutting all have the ability to generate significant levels of fugitive emissions of dust.

#### 5.3.2. Waste Sites

Waste sites are regulated under the Environmental Permitting Regulations 2010. The Environment Agency is the primary regulatory body for waste operations requiring an



environmental permit or a registered exemption. Where a local authority detects a statutory nuisance from, or receives a complaint of statutory nuisance arising from a waste site, it will need to consider the provisions of section 79(10)<sup>7</sup> when discharging its duties under the EPA 1990.

Section 79(10), EPA 1990, as amended and relevant to England and Wales, states:

*“A local authority shall not without the consent of the Secretary of State institute summary proceedings under this Part in respect of a nuisance falling within paragraph (b), (d), (e), (fb) or (g) of subsection (1) above if proceedings in respect thereof might be instituted under Part I or under regulations under section 2 of the Pollution Prevention and Control Act 1999.”*

From the results of the survey, local authorities are receiving notable numbers of complaints about waste sites regulated under an environmental permit or registered exemption.

### 5.3.3. Other Sources of Dust Complaint

From the figures for ‘other’ sources, it is evident that they make up a significant proportion of the total number of the dust complaints received by local authorities. However, the reported range of industrial, trade and business premises is extensive and it has not been possible to apportion numbers of complaints.

A summary of reported premises categorised under the ‘other’ category can be found in **Appendix 3**.

## 5.4. Comments

Limited complaints were received specifically about dust nuisance. However, a number of local authorities commented on the limitation of 79(1)(d) to address, dust from industrial, trade or business premises only and not domestic premises.

## 5.5. Main Findings

Construction sites accounted for the largest proportion of dust complaints from an individual source; the annualised total for the sub-sample population being 324 complaints.

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<sup>7</sup> Ibid, EPR Guidance – Statutory Nuisance



## 6. SMOKE

### 6.1. Introduction

Smoke falls within the statutory nuisance regime by virtue of Section 79 (1)(b) EPA which states “*smoke emitted from premises so as to be prejudicial to health or a nuisance.*”

The smoke provision above does not apply to:

- smoke emitted from a chimney of a private dwelling within a smoke control area;
- dark smoke emitted from a chimney of a building or a chimney serving the furnace of a boiler or industrial plant attached to a building or, for the time being, fixed to or installed on any land;
- smoke emitted from a railway locomotive steam engine; or
- dark smoke emitted otherwise than as mentioned above from industrial or trade premises.

Local authorities were asked to provide the number of complaints received about specific sources which, based on anecdotal evidence, were assumed to be the main sources of smoke complaint. These included:

- domestic garden bonfires;
- construction sites; and
- agricultural land.

An ‘other’ category was also specified to capture complaints about miscellaneous sources.

### 6.2. Number of Smoke Complaints by Source

Local authorities received a significant number of smoke complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 14,127 complaints.

This section analyses the annualised number of smoke complaints by source received by local authorities that were able to provide a breakdown. Therefore, the figures may not match the sample total detailed in **Section 3**.

From the annualised number of smoke complaints for the sub-sample population, smoke from garden bonfires generated the largest number of complaints from an individual source, more than seven times any other individual source. A notable number of complaints were also received about smoke from construction sites.

Other sources are made up of a wide variety of premises; a summary of the reported range of ‘other’ sources of smoke complaint can be found in **Appendix 3**.

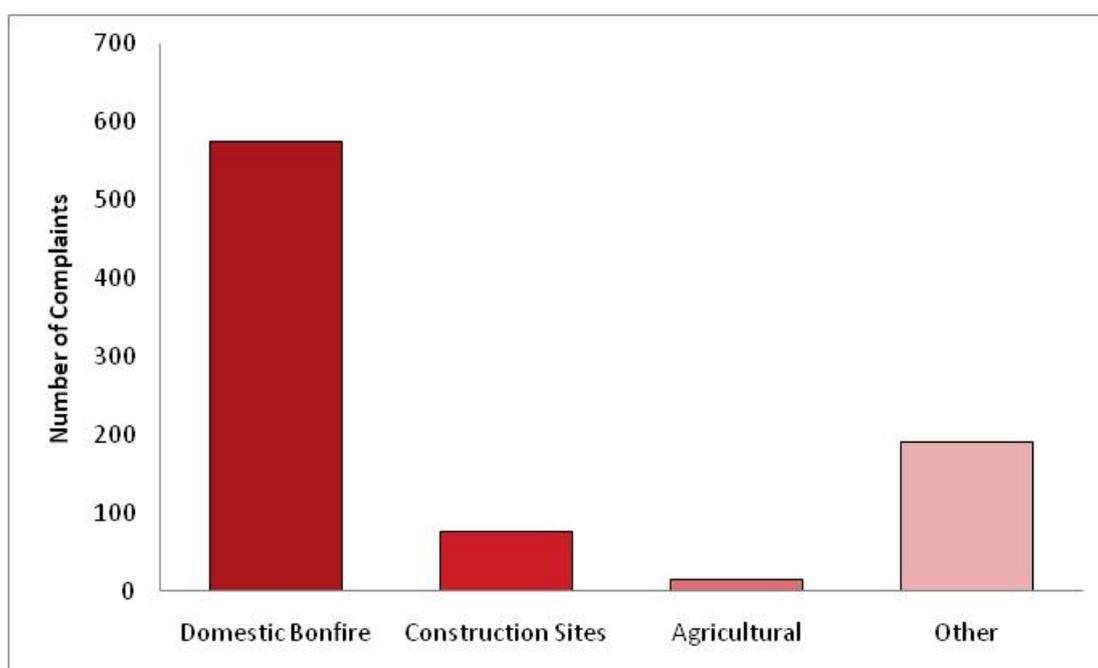
Analysis of some of the individual sources is discussed in further detail later in this section.



**Table 6.1 - Total Number of Smoke Complaints by Source**

Source of Smoke Complaint	Percentage of Total Number of Complaints (%)	Total Number of complaints	Complaints per Million	Complaints per Local Authority
Domestic Bonfire	67	5,830	575	93
Construction Sites	9	777	77	14
Agricultural	2	162	16	3
Other	22	1,933	191	32
<b>Total Sub-sample</b>		8,702		

**Figure 6.1 - Number of Smoke Complaints by Source per Million Population**



## 6.3. Typical Sources of Complaints

### 6.3.1. Garden Bonfires

Domestic bonfires accounted for the largest proportion of smoke complaints from an individual source; the annualised total for the sample population being 5,830 complaints.

Numerous local authorities reported significantly high numbers of complaints consistently in the hundreds over the three year reporting period.

### 6.3.2. Construction Sites

Construction sites accounted for fewer but notable number of smoke complaints from an individual source; the annualised total for the sample population being 777 complaints.



### 6.3.3. Other

From the figures for 'other' sources, it is evident that they make up a notable proportion of the total number of smoke complaints received by local authorities; the annualised total for the sub-sample population being 1,933 complaints. The reported range of premises is relatively wide and it has not been possible to apportion numbers of complaints. However, two commonly mentioned sources were smoke from domestic chimneys and wood burners.

A summary of reported premises categorised under the 'other' category can be found in **Appendix 3**.

## 6.4. Comments

- Comments referred to the significant number of complaints received under the smoke provision and the difficulties of investigating and taking enforcement action.
- A number of comments suggested the use of bylaws or the banning of bonfires as an alternative option for tackling smoke 'nuisance'.
- A number of local authorities noted an increase in the number of smoke complaints with the increase in popularity in recent years of domestic wood burners.
- A number of comments related to the complexity and overlap between a number of pieces of legislation such as section 33 & 34 of the EPA 1990, the Clean Air Act 1993 and the statutory nuisance regime.

## 6.5. Main Findings

Domestic bonfires accounted for the largest proportion of smoke complaints from an individual source; the annualised total for the sub-sample population being 5,830 complaints.



## 7. INSECTS

### 7.1. Introduction

Insects fall within the statutory nuisance regime by virtue of Section 79 (1)(fa) EPA which states “any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.”

Section 79(7C) defines “relevant industrial, trade or business premises” as premises that are industrial, trade or business premises as defined in subsection (7), but excluding:

- (a) land used as arable, grazing, meadow or pasture land;
- (b) land used as osier land, reed beds or woodland;
- (c) land used for market gardens, nursery grounds or orchards;
- (d) land forming part of an agricultural unit, not being land falling within any of paragraphs (a) to (c), where the land is of a description prescribed by regulations made by the appropriate person; and
- (e) land included in a site of special scientific interest (as defined in section 52(1) of the Wildlife and Countryside Act 1981).

and excluding land covered by, and the waters of, any river or watercourse, that is neither a sewer nor a drain, or any lake or pond.

For the purposes of subsection (7C):

- “agricultural” has the same meaning as in section 109 of the Agriculture Act 1947;
- “agricultural unit” means land which is occupied as a unit for agricultural purposes;
- “drain” has the same meaning as in the Water Resources Act 1991;
- “lake or pond” has the same meaning as in section 104 of that Act; and
- “sewer” has the same meaning as in that Act.

This provision is confined to relevant industrial, trade or business premises and, in addition to the above, it also has no application where the insect source is from residential premises.

Local authorities were asked to provide the number of complaints received about specific sources which were expected to be the main sources of insect complaint. These included:

- sewage treatment works ;
- farm premises;
- manure / slurry spreading; and
- waste sites.

An ‘other’ category was also specified to capture complaints about miscellaneous ‘relevant industrial, trade or business premises’.

### 7.2. Number of Insect Complaints by Source of the Sample Population

Local authorities received a notable number of insect complaints; the annualised total for the sample population being 1,471 complaints.



This section analyses the annualised number of insect complaints by source received by local authorities that were able to provide a breakdown. Therefore, the figures may not match the sample total detailed in **Section 3**.

From the annualised number of insect complaints for the sub-sample population, insects from farm premises generated the largest number of complaints from an individual source, more than eight times any other individual source, supporting the findings of the Defra research project on insect complaints<sup>8</sup>. A number of complaints were also received about insects from sewage treatment works and fewer from waste sites.

Other sources are made up of a variety of industrial trade and business premises; a short list of the reported range of 'other' sources of insect complaint can be found in **Appendix 3**.

Analysis of some of the individual sources is discussed in further detail later in this section.

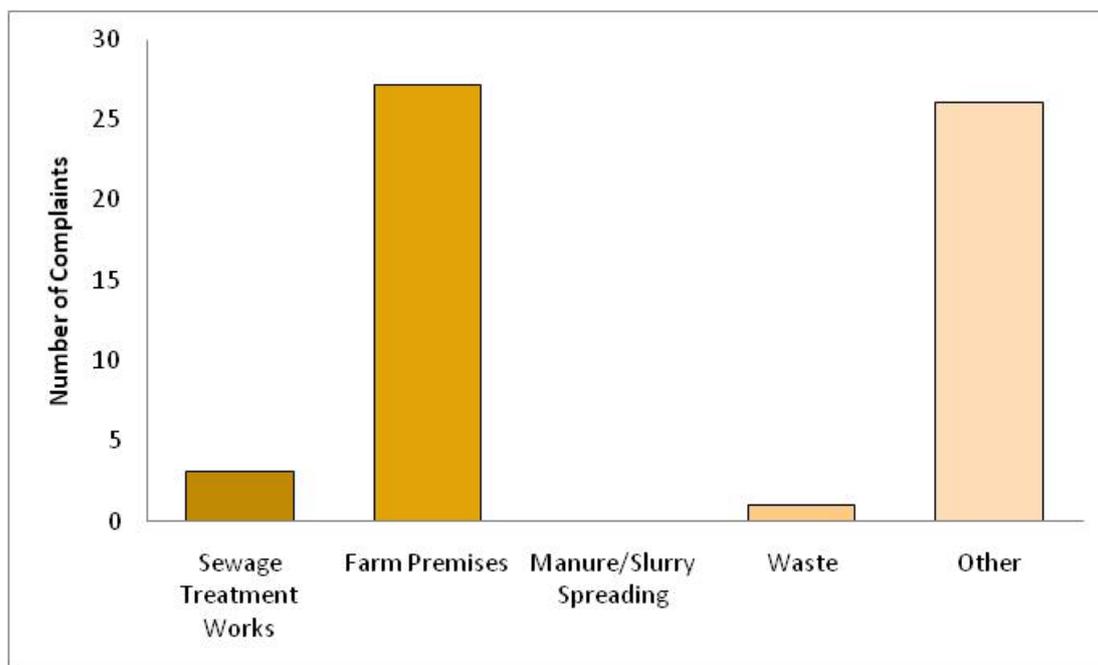
**Table 7.1 -Total Number of Insect Complaints by Source**

Insects	Percentage of Total Number of Complaints (%)	Total Number of complaints	Complaints per Million population	Complaints per Local Authority
Sewage Treatment Works	5	43	3	1
Farm Premises	47	374	27	6
Manure/Slurry Spreading	0	0	0	0
Waste	2	14	1	0
Other	45	359	26	6
<b>Total Sub-total</b>		789		

<sup>8</sup> Research into Local Authority Insect Nuisance complaints and their resolution.  
<http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&ProjectID=16605&FromSearch=Y&Publisher=1&SearchText=NANR279&SortString=ProjectCode&SortOrder=Asc&Paging=10>



**Figure 7.1 - Total Number of Insect Complaints by Source per Million Population**



### 7.3. Sources of Complaints

#### 7.3.1. Sewage Treatment Works

Development of large insect populations at sewage treatment works is typically associated with sewage treatment works that use trickling filter beds for their treatment process. This type of treatment is employed by the larger proportion of STWs in operation in England, as opposed to those works which employ the activated sludge process for waste water treatment.

Sewage treatment works accounted for a small proportion of insect complaints received by local authorities with the annualised total for the sample population being 43 complaints.

#### 7.3.2. Farm Premises

Farm buildings on agricultural land are not excluded from the insect nuisance provisions, even though the land surrounding them may be; these may typically include livestock units such as poultry houses, and barns.

Farm premises accounted for the largest proportion of insect complaints for an individual source, with the annualised total for the sample population being 374 complaints.

#### 7.3.3. Waste Sites

Waste sites are regulated under the Environmental Permitting Regulations 2010. The Environment Agency is the primary regulatory body for waste operations requiring an environmental permit or registered exemption. Where a local authority detects a statutory nuisance from, or receives a complaint of statutory nuisance arising from a waste site, it will need to consider the provisions of section 79(10) when discharging its duties under the EPA 1990.



However, unlike odours and dust as detailed previously, the provisions of Section 79(10)<sup>9</sup>, EPA 1990, do not apply to summary proceedings for insect nuisance as it is not a relevant nuisance listed under the provision.

From the results of the survey, local authorities have received a limited number of insect complaints about waste sites, despite regulation of these sites under an environmental permit.

#### 7.3.4. Other Sources

Reported 'other' sources of insects were limited in number despite the number of complaints and included premises such as restaurants, recreational land, hotels, allotments and wharfs. A summary of 'other' sources is detailed in **Appendix 3**.

### 7.4. Comments

The following comments were discussed further during telephone conversations held with local authority officers and through comments made in the survey about the insect nuisance provisions.

- A few comments were received from local authorities about the complexities of insect investigations, particularly identifying the source of the insects where there are potentially multiple sources.
- One local authority reported significant problems of insect nuisance associated with the spreading of poultry manure to pasture land. However, because of the exclusion of '*land used as arable, grazing, meadow or pasture land*' from the insect provisions, they were unable to take enforcement action for insect nuisance.
- A number of comments were received about a lack of clarity about enforcement responsibilities between the Environment Agency and local authorities with regard to regulated facilities under the Environmental Permitting Regulations, such as intensive pig or poultry facilities or waste sites which are regulated by the Environment Agency.

### 7.5. Main Findings

Farm premises accounted for the largest proportion of insect complaints from an individual source; the annualised total for the sub-sample population being 374 complaints.

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<sup>9</sup> EPR Guidance – Statutory Nuisance <http://www.defra.gov.uk/environment/policy/permits/documents/ep2010stat-nuisance.pdf>



## 8. FUMES AND GASES

### 8.1. Introduction

Fumes and Gases fall within the statutory nuisance regime by virtue of Section 79 (1)(c) EPA which states “*fumes or gases emitted from premises so as to be prejudicial to health or a nuisance*”. Fumes are defined as “*any airborne matter smaller than dust*” and Gas includes “*vapour and moisture precipitated from vapour*”. The provision was first introduced to the statutory nuisance regime in the EPA 1990.

This provision does not apply in relation to premises other than private dwellings. The provision is therefore not applicable to industrial, trade or business premises.

### 8.2. Analysis of Complaint Data

Local authorities received a notable number of complaints about fumes and gases from domestic dwellings with the annualised total for the sample population being 3,010 complaints.

### 8.3. Typical Sources of Complaints

Fumes from boiler flues appear to be the most commonly reported complaint under this category. Other commonly reported complaints about fumes and gases include wood burners, cooking smells, cigarette smells and domestic paint spraying activities. A summary of responses is detailed in **Appendix 3**.

### 8.4. Comments

Apart from comments received about the typical sources of complaints, no further comments were reported about this provision.

### 8.5. Main Findings

Local authorities received a notable number of complaints about fumes and gases from domestic premises; the annualised total for the sub-sample population being 3,010 complaints.



## 9. ACCUMULATION OR DEPOSIT

### 9.1. Introduction

Accumulations and Deposits fall within the statutory nuisance regime by virtue of Section 79 (1)(e) EPA which states “*any accumulation or deposit which is prejudicial to health or a nuisance.*”

One of the oldest of the statutory nuisances, this provision dates back to the middle of the nineteenth century.

### 9.2. Analysis of Complaint Data

This category of statutory nuisances generates the most complaints out of the statutory nuisances surveyed. Numerous local authorities receive complaints in excess of 100-500 and two local authorities over the three year period registered annual complaints in excess of 1000; the annualised total for the sample population being 23,630 complaints.

Discussions were held with a number of local authorities reporting higher numbers of complaints than the local authority average, to determine if the number of complaints also included general reports of fly tipping. However, the majority of the local authorities contacted confirmed that the main types of complaint were domestic refuse complaints in gardens or on private land and that fly-tipping on public land would be dealt with by the waste or highways departments.

Whilst some local authorities have combined waste enforcement teams from waste / highway / environmental health, the majority of those local authorities spoken to have retained distinctly separate services and the number of complaints received would squarely fall under the provisions of the statutory nuisance regime. However, it would appear local authorities use a range of legislation to enforce the removal and clearance of refuse on private land. Such legislation includes:

- Prevention of Damage by Pest Act 1949;
- Public Health Act 1936; and
- Clean Neighbourhoods and Environment Act 2005.

Indicative comments received, through both the survey and subsequent conversations, indicated that the majority of the domestic refuse left in residential gardens arose typically from tenanted premises between changes of tenancy. One local authority pinpointed the significant number of complaints to the transient student population within its geographical boundary.

### 9.3. Typical Sources of Complaints

For this category of statutory nuisance, qualitative information was requested only on the typical types of accumulation complaints received by the authority. A summary of responses is detailed in **Appendix 3**.

A significant proportion of the responses indicated that the main accumulation complaint was about domestic refuse on private land. Other typical complaints included refuse outside commercial premises, accumulations of refuse in private alleyways and dog faeces in residential gardens.



## 9.4. Comments

In addition to comments received about the typical sources of complaints, the survey prompted a number of comments on the following issues:

- the significant costs of investigation, enforcement and works carried out in default that arise under this category of statutory nuisance;
- the use and utility of fixed penalty notices under the provisions of other legislation;
- the range of legislation employed in addition to the EPA to tackle accumulations; and
- the use of persuasion rather than enforcement to remove accumulations of refuse.

## 9.5. Main Findings

- Complaints about accumulations and deposits accounted for the greatest proportion of complaints received out of all the statutory nuisances surveyed; the annualised total for the sample population being 23,630 complaints.
- Typically, the most common types of complaint under the accumulation or deposit category of statutory nuisance was domestic refuse being left in gardens, on private land or in alleyways.
- Other common accumulation complaints related to refuse left at the rear of commercial shops and excessive dog fouling in residential gardens.
- A range of legislation is used by the local authority environmental health staff in addition to the statutory nuisance provisions to enforce problem accumulations.



## 10. ANIMALS

### 10.1. Introduction

Animals fall within the statutory nuisance regime by virtue of Section 79 (1)(f) EPA which states “*any animal kept in such a place or manner which is prejudicial to health or a nuisance.*”

This provision refers to the conditions in which an animal is kept on a premises and its suitability. In addition, given the provision refers to the ‘keeping’ of any animal, it does not extend to feral animals.

### 10.2. Analysis of Complaints Data

Local authorities received a notable number of complaints each year about animals kept in such a place or manner with the annualised total for the sample population being 1,502 complaints.

### 10.3. Typical Sources of Complaints

For this category of statutory nuisance, qualitative information was requested on the typical types of animal complaints received by the authority. A summary of responses is detailed in **Appendix 3**.

Most of the local authorities reported complaints about excessive numbers of pets or livestock being kept in residential gardens including dogs, cats, chickens, ducks and pigs. Complaints were about excessive amounts of faeces and the excessive amount of smells or flies caused by the manner or conditions in which the animals were being kept.

### 10.4. Comments

Apart from comments received about the typical sources of complaints, no further comments were reported about this provision.

### 10.5. Main Findings

Local authorities received a notable number of complaints about the condition or the suitability of premises where animals are being kept; the annualised total for the sample population being 1,502 complaints.



## 11. STEAM

### 11.1. Introduction

Steam falls within the statutory nuisance regime by virtue of Section 79 (1)(d) EPA which states “*any [ ] steam [ ] arising on industrial, trade or business premises and being prejudicial to health or a nuisance*” Steam was introduced to the statutory nuisance regime under the EPA 1990.

Note that this provision is confined to industrial, trade or business premises and has no application where the steam source is from residential premises.

### 11.2. Analysis of Complaints Data

Local authorities reported negligible numbers of complaints under the steam provision with the annualised total for the sample population being 10 complaints.

### 11.3. Typical Sources of Complaints

As can be seen from the annualised number of complaints, this category would appear to be rarely invoked by local authorities under the statutory nuisance regime. However, sources that have been mentioned by local authorities include launderettes, unspecified industrial premises and boiler flues. A summary of responses is detailed in **Appendix 3**.

### 11.4. Comments

No comments were received from local authorities specific to the steam provisions, apart from under the ‘Typical Sources of Complaints’ section of the questionnaire which confirmed the limited number and type of steam complaints received by local authorities.

### 11.5. Main Findings

Complaints about steam from industrial trade or business premises were rarely received by local authorities; the annualised total for the sample population being 10 complaints.



## 12. PREMISES

### 12.1. Introduction

Premises fall within the statutory nuisance regime by virtue of Section 79 (1)(a) EPA which states “*any premises in such a state as to be prejudicial to health or a nuisance*”. One of the oldest of the statutory nuisances, this provision dates back to the middle of the nineteenth century.

Premises is defined as including land and any vessel.

### 12.2. Analysis of Complaint Data

Local authorities received a significant number of complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 4,232 complaints.

### 12.3. Typical Sources of Complaints

For this category of statutory nuisance, qualitative information was requested only on the typical types of premises complaint received by the authority. A summary of responses is detailed in **Appendix 3**.

- On the whole, use of this provision was typically directed to domestic premises rather than industrial, trade or business.
- The majority of local authorities reported premises in a ‘filthy and verminous’ state as the main cause of complaint about premises in such a state. However, many local authorities reported that they would use alternative provisions under the Public Health Act 1936 in preference.
- Use of the provision for complaints of damp, either on the premises or caused by adjacent premises, was also reported.
- Housing defects on one premises affecting an adjacent premises e.g. defective guttering, were also reported.
- Complaints about overgrown gardens were also reported to be investigated under this provision.

### 12.4. Comments

From a number of comments reported in the survey, local authorities use a range of legislation to address “*premises in such a state*”. Other relevant legislation used includes:

- Public Health Act 1936 – filthy and verminous provisions; and
- Housing Act 2004 - Housing, Health and Safety Rating System.

### 12.5. Main Findings

Local authorities received a notable number of complaints about premises in such a state in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 4,232 complaints.



## 13. ANY OTHER MATTER

### 13.1. Introduction

A number of other provisions fall within the statutory nuisance regime by virtue of Section 79 (1)(h) EPA which states “*any other matter declared by any enactment to be a statutory nuisance*”. This category of statutory nuisance refers to specific provisions from the Public Health Act 1936 and the Mines and Quarries Act 1954, as detailed below.

#### 13.1.1. Public Health Act 1936, Section 141 - Power to deal with insanitary cisterns, etc.

Any well, tank, cistern or water-butt used for the supply of water for domestic purposes which is so placed, constructed or kept, as to render the water therein liable to contamination prejudicial to health, shall be a statutory nuisance for the purposes of Part III of the Environmental Protection Act 1990.

#### 13.1.2. Public Health Act 1936, Section 268(2) - Nuisances arising from, and byelaws and other matters relating to, tents, vans, etc.

For the purposes of Part III of the Environmental Protection Act 1990, a tent, van, shed or similar structure used for human habitation:

- which is in such a state or so overcrowded, as to be prejudicial to the health of the inmates; or
- the use of which, by reason of the absence of proper sanitary accommodation or otherwise, gives rise, whether on the site or on other land, to a nuisance or to conditions prejudicial to health,

shall be a statutory nuisance, and the expression “occupier” in relation to a tent, van, shed or similar structure shall include any person for the time being in charge thereof.

#### 13.1.3. Public Health Act, Section 259, Nuisances in connection with water-courses, ditches, ponds, etc

The following matters shall be statutory nuisances for the purposes of Part III of the Environmental Protection Act 1990, that is to say:

- any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance; or
- any part of a watercourse, not being a part ordinarily navigated by vessels employed in the carriage of goods by water, which is so choked or silted up as to obstruct or impede the proper flow of water and thereby to cause a nuisance, or give rise to conditions prejudicial to health.

Provided that in the case of an alleged nuisance under paragraph (b) nothing in this subsection shall be deemed to impose any liability on any person other than the person by whose act of default the nuisance arises or continues.

#### 13.1.4. Mines and Quarries Act 1954, Section 151 - Fencing of abandoned and disused mines and of quarries.

For the purposes of Part III of the Environmental Protection Act 1990, each of the following shall be deemed to be a statutory nuisance that is to say:



- a shaft or outlet of an abandoned mine (other than a mine to which the proviso to the foregoing subsection applies) or of a mine (other than as aforesaid) which, notwithstanding that it has not been abandoned, has not been worked for a period of twelve months, being a shaft or outlet the surface entrance to which is not provided with a properly maintained device such as is mentioned in that subsection;
- a shaft or outlet of a mine to which the proviso to the foregoing subsection applies, being a shaft or outlet with respect to which the following conditions are satisfied, namely:
  - that its surface entrance is not provided with a properly maintained device such as is mentioned in that subsection; and.
  - that, by reason of its accessibility from a highway road (within the meaning of the Roads (Scotland) Act 1984)] or a place of public resort, it constitutes a danger to members of the public; and.
- a quarry (whether in course of being worked or not) which:
  - is not provided with an efficient and properly maintained barrier so designed and constructed as to prevent any person from accidentally falling into the quarry; and.
  - by reason of its accessibility from a highway road (within the meaning of the Roads (Scotland) Act 1984)] or a place of public resort constitutes a danger to members of the public.

### 13.2. Analysis of Complaint Data

Local authorities reported few complaints under this provision with the annualised total for the sample population being 47 complaints.

### 13.3. Typical Sources of Complaints

Discussions were held with the few local authorities that reported receiving complaints under this category of statutory nuisance; typically complaints related to blocked ditches or watercourses.

### 13.4. Main Findings

The number of complaints received under the, '*any other matter declared by enactment to be statutory nuisance*' provision are few and typically related to blocked ditches or watercourses; the annualised total for the sample population being 47 complaints.



## 14. MAIN FINDINGS

### Accumulation and Deposits

- Complaints about accumulations and deposits accounted for the greatest proportion of complaints received out of all the statutory nuisances surveyed; the annualised total for the sample population being 23,630 complaints.
- Typically, the most common types of complaint under the accumulation or deposit category of statutory nuisance was domestic refuse being left in gardens, on private land or in alleyways.
- Other common accumulation complaints related to refuse left at the rear of commercial shops and excessive dog fouling in residential gardens.
- A range of legislation is used by the local authority environmental health staff in addition to the statutory nuisance provisions to enforce problem accumulations.

### Odours

- Local authorities received a significant number of odour complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 6,928 complaints.
- Sewage treatment works accounted for the largest proportion of odour complaints from an individual source; the annualised total for the sub-sample population being 1,275 complaints.
- Individual STWs have the potential to generate significant numbers of complaints.
- Significant numbers of complaints are received by local authorities about agricultural activities, (572 complaints) commercial kitchens (441 complaints) and waste sites (344 complaints) based on the annualised total for the sub sample population.

### Dust

- Local authorities received a notable number of dust complaints each year with the annualised total for the sample population being 1,377 complaints;
- Construction sites accounted for the largest proportion of dust complaints from an individual source; the annualised total for the sub-sample population being 324 complaints.

### Smoke

- Local authorities received a significant number of smoke complaints in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 14,127 complaints.
- Domestic bonfires accounted for the largest proportion of smoke complaints from an individual source; the annualised total for the sub-sample population being 5,830 complaints.



## **Insects**

- Local authorities received a notable number of insect complaints; the annualised total for the sample population being 1,471 complaints.
- Farm premises accounted for the largest proportion insect complaints from an individual source; the annualised total for the sample population being 374 complaints.

## **Animals**

- Local authorities received a notable number of complaints each year about animals kept in such a place or manner; the annualised total for the sample population being 1,502 complaints.

## **Premises**

- Local authorities received a significant number of complaints about premises in such a state in comparison to the other statutory nuisances surveyed; the annualised total for the sample population being 4,232 complaints.

## **Fumes and Gases**

- Local authorities received a notable number of complaints about fumes and gases from domestic dwellings; the annualised total for the sample population being 3,010 complaints.

## **Steam**

- Local authorities reported negligible numbers of complaints under the steam provision; the annualised total for the sample population being 10 complaints.

## **Any Other Matter**

- Local authorities reported very few complaints under the 'any other matter' provision; the annualised total for the sample for the sample population being 47 complaints.

## **Abatement Notices**

- Approximately 4% of investigations across all categories of statutory nuisances resulted in the service of an abatement notice.



## 15. ACKNOWLEDGEMENTS

Defra thanks the following local authorities for their help with this project.

<b>Local Authorities</b>		
Rushcliffe Borough Council	Ryedale District Council	South Lakeland District Council
Eastleigh Borough Council	Brentwood Borough Council	Barrow Borough Council
Thanet District Council	Cheshire East Council	Harrogate Borough Council
Mendip District Council	Stevenage Borough Council	Rochford District Council
Suffolk Coastal District Council	Blackburn with Darwen Borough Council	Craven District Council
Maldon District Council	Redcar and Cleveland Borough Council	East Riding of Yorkshire Council
South Gloucestershire	Cheshire West and Chester	North Lincolnshire Council
North Norfolk District Council	Vale of White Horse District Council	Wakefield MDC
Nottingham City Council	South Somerset District Council	Calderdale MBC
Lewes District Council	Waverley Borough Council	Fylde Borough Council
Sheffield City Council	Ashford Borough Council	Stockton on Tees Borough Council
Cotswold District Council	Christchurch Borough Council	Wigan Council
Reading Borough Council	Sandwell MBC	South Tyneside Council
Rochdale MBC	Chorley Council	Hartlepool Borough Council
Tendring District Council	South Derbyshire District Council	Kingston upon Hull City Council
Bury MBC	Gedling Borough Council	Wirral Borough Council
London Borough of Lambeth	Stoke on Trent City Council	Stockport MBC
Hillingdon	Guildford Borough Council	Salford City Council
Amber Valley Borough Council	Torrige DC	Middlesbrough Borough Council
London Borough of Hounslow	Breckland Council	Great Yarmouth Borough Council
Southampton City Council	Darlington Borough Council	Wyre Borough Council
Newark & Sherwood District Council	Tandridge District Council	Rugby Borough Council
London Borough of Camden	Broadland District Council	Daventry District Council
Babergh District Council	Chesterfield Borough Council	Epsom & Ewell borough Council
Exeter City Council	East Northamptonshire Council	Wycombe District Council
Eden District Council	Aylesbury Vale District Council	South Ribble Borough Council
Milton Keynes Council	Test Valley Borough Council	Borough Council of King's Lynn & West Norfolk
City of York Council	Rother District Council	Thurrock Council
Swale Borough Council	Stafford Borough Council	Isle of Wight Council
Dacorum Borough Council	Three Rivers District Council	Hastings Borough Council
Havant Borough Council	Blaby District Council	Castle Point Borough Council
Walsall MBC	Boston Borough Council	North Kesteven District Council
Chichester District Council	Tameside MBC	Woking Borough Council
North Hertfordshire District Council	South Staffordshire District Council	Bedford Borough Council
Horsham District Council	Uttlesford District Council	Birmingham City Council
Cambridge City Council	South Holland District Council	Kirklees Council
Brent Council	Ribble Valley BC	Doncaster Metropolitan Borough Council
Staffordshire Moorlands District Council	Wolverhampton City Council	Coventry City Council
East Herts Council	Northampton BC	Luton Borough Council
Blackpool Council	Bromsgrove District Council	Dudley MBC
Warrington Borough Council		Sunderland City Council



## **APPENDIX 1**

# **Statutory Nuisance Questionnaire**

# Statutory Nuisance Questionnaire

## 1. Respondent Details

1. Name of local authority:

2. Contact details of respondent:

Name

Telephone number

E-mail address

## 2. Total Annual Statutory Nuisance Complaints

1. Annual reporting period for statutory nuisance complaints:

Per Calendar Year (January - December)

Per Financial Year (April - March)

Please specify



2. How many complaints about **ODOUR** from industrial, trade or business premises has the local authority received?

2010

2009

2008

Total

3. How many complaints about **DUST** from industrial, trade or business premises has the local authority received?

2010

2009

2008

Total

4. How many complaints about **SMOKE** has the local authority received?

2010

2009

2008

Total

5. How many complaints about **INSECTS** from relevant industrial, trade or business premises has the local authority received?

2010

2009

2008

Total

6. How many complaints about **FUMES** or **GASES** (including domestic odours) from private dwellings has the local authority received?

2010

2009

2008

Total

7. How many complaints about **ACCUMULATIONS** or **DEPOSITS** has the local authority received?

2010

2009

2008

Total

8. How many complaints about **ANIMALS** 'kept in such a place or manner' has the local authority received?

2010

2009

2008

Total

# Statutory Nuisance Questionnaire

9. How many complaints about STEAM from industrial, trade or business premises has the local authority received?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

10. How many complaints about PREMISES 'in such a state' has the local authority received?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

11. How many complaints about 'any other matter declared by any enactment to be a statutory nuisance' (i.e. s141, s259 & s268(2) of the Public Health Act 1936 and s151 of the Mines and Quarries Act 1954) has the local authority received?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

## 3. Source of Complaints

1. How many of the total complaints about ODOUR were received from these specific industrial, trade or business sources?

	2010	2009	2008
Sewage treatment works	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Sewage sludge spreading	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Farm premises	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Manure / slurry spreading	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Commercial kitchens	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Waste permitted / exempt sites	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Other industrial, trade or business premises	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

Other (please specify)

<input type="text"/>	<input type="text" value="5"/>
<input type="text"/>	<input type="text" value="6"/>

# Statutory Nuisance Questionnaire

## 2. How many of the total complaints about DUST were received from these specific industrial, trade or business sources?

	2010	2009	2008
Construction sites	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Waste permitted / exempt sites	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Agricultural land	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Mineral excavations	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Other industrial, trade or business premises	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Other (please specify)	<input type="text" value=""/>		

## 3. How many of the total complaints about SMOKE were received from these specific sources?

	2010	2009	2008
Domestic garden bonfires	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Construction sites	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Agricultural land	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Other	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Other (please specify)	<input type="text" value=""/>		

## 4. How many of the total complaints about INSECTS were received from these specific industrial, trade or business sources?

	2010	2009	2008
Sewage treatment works	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Farm premises	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Waste permitted / exempt sites	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Other relevant industrial, trade or business premises	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>
Other (please specify)	<input type="text" value=""/>		

# Statutory Nuisance Questionnaire

5. Please specify the typical sources of complaint about FUMES or GASES (including domestic odours) from private dwellings.

	5
	6

6. Please specify the typical types of premises giving rise to complaints about ACCUMULATIONS or DEPOSITS.

	5
	6

7. Please specify the typical types of complaint received about ANIMALS 'kept in such a place or manner'.

	5
	6

8. Please specify the typical sources of complaint about STEAM from industrial, trade or business premises.

	5
	6

9. Please specify the typical types of complaint about PREMISES 'in such a state'.

	5
	6

## 4. Number of Abatement Notices Served

1. How many abatement notices were served in response to the total complaints about ODOUR from industrial, trade or business premises?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

2. How many abatement notices were served in response to the total complaints about DUST from industrial, trade or business premises?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

3. How many abatement notices were served in response to the total complaints about SMOKE?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

4. How many abatement notices were served in response to the total complaints about INSECTS from relevant industrial, trade or business?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

# Statutory Nuisance Questionnaire

5. How many abatement notices were served in response to the total complaints about FUMES or GASES from private dwellings?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

6. How many abatement notices were served in response to the total complaints about ACCUMULATIONS or DEPOSITS?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

7. How many abatement notices were served in response to the total complaints about ANIMALS 'kept in such a place or manner'?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

8. How many abatement notices were served in response to the total complaints about STEAM from industrial, trade or business premises?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

9. How many abatement notices were served in response to the total complaints about PREMISES 'in such a state'?

	2010	2009	2008
Total	<input type="text" value="6"/>	<input type="text" value="6"/>	<input type="text" value="6"/>

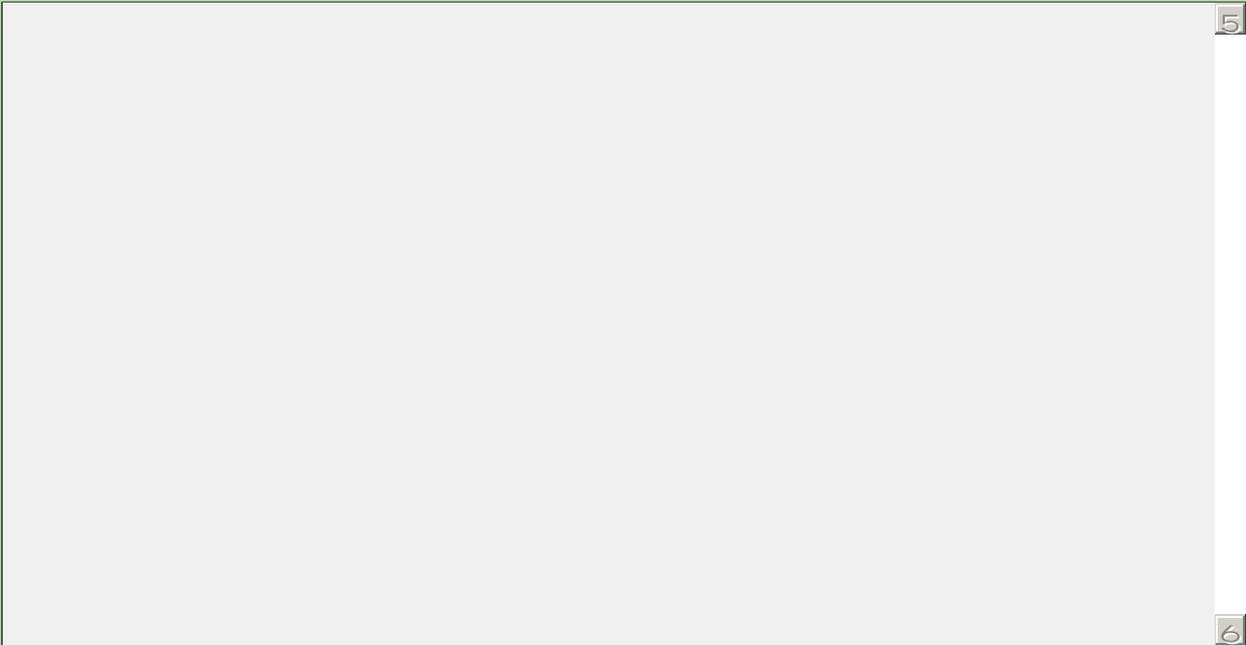
## 5. Additional Information

## Statutory Nuisance Questionnaire

1. Are there any comments or additional information that you wish to provide on your authority's experience of using the statutory nuisance regime?

Examples,

- estimated average time taken to investigate complaints;
- which type of complaint general takes longer;
- general comments on the statutory nuisance provisions - positive & negative;
- views on the regulation of any of the types of statutory nuisance (i.e odour, dust, smoke); or
- views on the regulation of statutory nuisance from any particular source (e.g. sewage treatment works, construction sites, farms, waste sites).

A large, empty rectangular text box with a light gray background and a thin black border. It is intended for providing comments or additional information. There are small square icons in the top right and bottom right corners of the box, possibly for zooming or scrolling.

2. Would you be happy for a member of Defra's Statutory Nuisance team to contact you to discuss any of the information you have provided in further detail?

Yes

No



## **APPENDIX 2**

### **Summary Table of Annualised Data**



### Summary Table of the 3 Year Annualised Data

	Odour	Dust	Smoke	Insect	Fumes or gases	Accumulations & Deposits	Animals	Steam	Premises	Any other Matter
<b>Total number of Complaints</b>	6,928	1,377	14,127	1,471	3,010	23,630	1,502	10	4,232	47
<b>Average Number of Complaints per Local Authority</b>	59	12	120	13	26	215	15	0.11	46	1
<b>Median</b>	37	8	102	1	13	123	3	0	8	0
<b>Mode</b>	16	4	105	0	0	500	0	0	0	0
<b>Standard Deviation*</b>	85	15	103	40	34	288	37	1	90	2
<b>Count</b>	119	117	118	111	114	110	98	94	92	92
<b>Number of Complaints / 1,000,000</b>	389	77	793	83	169	1,327	84	1	238	3

\*The relatively high standard deviations across all complaint categories indicate a significant level of variability in the number and type of complaints received from one authority to another.



## **APPENDIX 3**

### **List of Sources**



## 'Other' Odour Sources

Spreading of food waste	Forge permitted under an Environmental Permit
Industrial estates	Gas fired power station and associated wells dealing with "sour gas"
Offices	Dry-cleaners
Manufacturing premises	Allotments
Port activities	Riding stables
Car sprayers	Renderer and maggot breeding
Demolition sites	Garage workshop
Car parks	Abattoir
Crematorium	Pub WC
Airport - de-icer becoming anaerobic	Sports centre
Community halls	Vets
Butcher	Petroleum distributor
Cash/Carry	Bus depot
Grocer	Kerosene fumes from aircraft flying overhead
Petrol filling station	Vehicle exhausts
Railway station	Waste bins
Retail premises	Skip hire yard
Sealant manufacturer	Wood burner
Car body shop/vehicle refinisher	Meat cutting plant
Golf course	Pumping stations
Fibreglass manufacturer	Stables
Coach Park	Kennels
Drains / septic tanks	Printing process
Sewage pumping station	Pet food factory,
Woodworking	Horticultural nursery
Paint spraying	Tarmac plant,
Mobile food vendor	Tree feller yard
Fishmonger	Industrial processes (not exempt e.g. garages, maltsters),
Mushroom farm	Diesel jet washers at car wash
Fairground	Paint spraying
Commercial garages	Paper factory
Flour processing plant	Diesel smell from boat yard
Slaughterhouse	Chimney serving boiler
Disused factory	Watercourses or standing water.
Hospital	Organic water treatment
Odour from chemical spill	
Maggots at angling shop	
Burning PVC	
Rotting food at grocers	
Beauty shop	
Food processing factory	
Hairdressers	
Nail bars	



## **'Other' Dust Sources**

Port activities, quayside activities/ loading of ships etc (x6)  
Industrial estates  
Building product producers  
Factories.  
Manufacturing  
Railway revetment activity  
Highways  
Catering establishments  
Fibreglass manufacturer  
Furniture manufacturer  
Skip hire company yard  
Sandblasting  
DIY/construction  
Vehicle workshop,  
Dust from park hire yard  
Commercial premises  
Private roadways leading to premises  
Construction sites and stone cutters on the street  
Steelworks and associated activities such as coal handling, slag handling etc.  
Timber yards (non-exempt)  
Shot blasting  
Sand blasting operations  
Transport (e.g. traffic on un-made roads)  
Dust from waste land  
Sandblasting domestic properties, cutting back prior to pointing, neighbours skip.  
Woodworking sites  
Brick processing plant  
Aggregate batching  
Substation  
Mobile crushing plant on demolition site PGN 6/12(05)  
Dust from domestic property when carrying out DIY.



## **'Other' Smoke Sources**

Domestic & Commercial chimneys(x17)  
Woodburners (x7),  
Allotments (x6)  
Barbeques (x4)  
Campsite (x3)  
Waste Sites (x3)  
Stables (x2)  
Manure heap (x2)  
Riding Schools and Stables (x2)  
Cable Burning (x2)  
Business premises burning refuse/trade waste  
Boats  
Open land  
Shops  
Skip hire companies  
Catering establishments, industrial estates  
Garages  
Bodyshops  
Commercial bonfires.  
Cemetery  
School grounds  
Travellers site  
Cigarette smokers  
Plastic in skip  
Commercial bonfires on waste land  
Open fires on industrial estates and commercial units  
Scrap yard  
Tree surgeons  
Crematorium  
Fireplace installers  
Trout farm  
Waste and recycling centre  
Restaurants  
Kennels  
Builder's merchant  
Industrial units  
Furniture removal premises  
Bonfires at shop premises, smoke from domestic chimneys  
Garden nursery



## Typical Sources of Fumes and Gases

Domestic Boilers (Condensing /Oil) (x41)  
Cooking odours/fumes (x20)  
Woodburners (x16)  
Drains (x14)  
Paint Spraying (x14)  
Cigarette smoke, (x13)  
Dogs Faeces in garden (x8)  
Storage of waste (x8)  
Vehicles Exhausts (x7)  
Dead animals/rodents (x4)  
Smell of potentially filthy or verminous domestic premises (x3)  
Keeping of animals (x3)  
Bonfires (x2)  
Manure (x2)  
Kerosene  
Petrol spills  
Soil stacks  
Compost bins,  
Chemicals, fuel spillage  
Kiln  
Strong smell from weed killer,  
Gas leaks  
Mainly concern about fumes from domestic chimneys ( as opposed to smoke )  
Building works,  
Domestic chemical storage,  
Damp proof treatments,  
Wood treatment  
Pest treatments  
Diesel generators

## Typical Complaints of Accumulations or Deposits

Accumulations in domestic premises /gardens (x40)  
Commercial premises (food premises mainly identified) (x31)  
Dog faeces in gardens (x18)  
Private Land (general) (x11)  
Private alleyways (x9)  
Shared private property e.g. communal private car park/bins areas. (x8)  
Residential private rented (x6)  
Vacant premises (x6)  
Storage of horse manure (x4)  
Public open spaces (x4)  
Premises where the occupier vulnerable (x3)  
Overgrown gardens premises (x2)



### Typical Complaints about Steam

Factory steam- pipe leakage  
Overspray from steam cleaner (commercial garage) (x2)  
Laundrettes (x2)  
Industrial units  
Fugitive emissions from a window  
Food processing plants  
These have included gas from ammonia leaks and chemical spills.  
Condensing flue emissions from gas fired boilers (x2)  
Visible emissions from local industrial processes - perfume producing plant

### Typical Complaints about Animals kept in such a place or manner

Livestock and pets kept in gardens / domestic property in large numbers etc chickens, ducks, pigs ,dogs, cats (x31)  
Dogs faeces in gardens (x16)  
Animal faeces/manure (x7)  
Odours arising from the keeping of livestock or pets (x5)  
Smell and Flies (x4)  
Noisy Cockerels (x4)  
Noise from barking dogs/animals.(x4)  
Rodents attracted by the keeping of animals (x3)  
Animals left in premises (x2)  
Pigeon lofts badly maintained (x2)  
Bird droppings, pig feeding  
Keeping of fowl  
Excessive bird feeding  
Dogs badly kept in gardens.  
Persistent roaming/escaping of dogs (animal hoarding tends to fall into F&V legislation)

### Typical Complaints about Premises

Filthy and verminous premises (x28)  
Damp (x19)  
Disrepair (defective guttering, lack of hot water (x13)  
Overgrown gardens (x8)  
Drainage (x6)  
Domestic premises (general) (x6)  
Empty / derelict properties (x5)  
Accumulations of refuse (x4)  
Cats and dogs faeces (x3)  
General residential odour problems (x3)  
Pest / rodents (x4)  
Occupants hoarding (x2)  
Domestic odours (x2),  
Miscellaneous (multiple nuisances; derelict building; food premises, flies, residential living conditions and fire at a property; insecure premises; private rented sector or elderly owner-occupiers mainly; flood; gas leak; fuel oil leaks; water damage; insecure; un-emptied skips and refuse build up



# TEMPLE

**London Office:**

Tempus Wharf  
33A Bermondsey Wall West  
London SE16 4TQ  
T: 0207 394 3700  
F: 0207 394 7871

**Head Office:**

Barnards, Station Road,  
Horsted Keynes,  
West Sussex RH17 7ED  
T: 01825 790964  
F: 01825 791066

E: [enquiries@templegroup.co.uk](mailto:enquiries@templegroup.co.uk)  
W: [www.templegroup.co.uk](http://www.templegroup.co.uk)