

Bonfires:

Frequently Asked Questions

Fact Sheet 1

Environmental Protection Act 1990

Are Bonfires Illegal?

There are no laws or local bylaws which make it illegal to have a bonfire on a domestic property. HOWEVER, if you do decide to have a bonfire, you must ensure that any resulting smoke and odour does not cause a statutory nuisance to others around you.

What is a Statutory Nuisance?

There is no fixed definition of this term. However, cases which have been tested through the courts have shown it to be a “material interference with the comfort and enjoyment of a person’s home”.

So what does this mean in practice?

In order for such a situation to cause a Statutory nuisance, the smoke and odour from the fire(s) would have to have to unreasonably and significantly interfere with the way in which your neighbour uses their home ie forces them to go inside, being unable to open windows etc.

So could the council investigate complaints regarding bonfires?

Yes, the council can investigate under an Act called the Environmental Protection Act 1990. In order for formal action to be taken under this Act, we would have to gather evidence and prove that the smoke and odour was causing a Statutory Nuisance to others.

How would complaints be investigated?

The investigation initially involves standard letters going out to both parties, and the complainant completing diary sheets to record when the fires are occurring. Thereafter our investigations can involve visits by officers to the complainant’s property to determine whether or not a Statutory Nuisance is occurring.

What action could be taken under this Act?

If the Council is satisfied that the fires are causing a Statutory Nuisance, a notice can be served under this Act which can stop the activity occurring.

So should I stop having bonfires altogether?

Not necessarily, but you must consider how often you are burning, what you are burning and the effect that your activity could have on others. It is also important to consider the alternatives to burning which are detailed on fact sheet 2.

What about fires on commercial premises?

Under Section 2 of The Clean Air Act 1993, it is an offence to burn any item on or in connection with commercial or business premises i.e. bringing materials back for burning from a commercial or business premises, which gives rise to dark smoke. The maximum fine for this offence is £20,000 in the event of a successful prosecution. In addition should you operate a business you have a Duty of Care to dispose of any waste associated with that business in a responsible manner. This falls within the remit of the Environment Agency who can be contacted on 08708 506 506 for further information.