

### Domestic premises

21. On receipt of a complaint about a garden bonfire try and visit as soon as possible to witness the event. If the fire does not constitute a statutory nuisance the complainer should be given appropriate advice (see the leaflet prepared by the National Society for Clean Air and Environmental Protection (NSCA) on Garden Bonfires).
22. In some cases it may be appropriate to visit the house where the fire is or was taking place and to advise the householder there that a complaint has been received and to give him/her appropriate advice on an informal basis ( eg alternative methods of disposal of garden waste) including the NSCA leaflet.
23. The complainer should be advised of his rights under section 82 of the Environmental Protection Act 1990 to make a complaint directly to the sheriff if he still considers he is aggrieved by a statutory nuisance.
24. If in the officer's opinion the fire constitutes a statutory nuisance (as defined in section 79 of the Environmental Protection Act 1990 - see relevant section in appendix 5) the officer should visit the premises in question and speak to the householder responsible for the fire to explain that a complaint has been received and that smoke from the fire is causing a nuisance amounting to a statutory nuisance in terms of the Environmental Protection Act 1990. The perpetrator should be asked to stop burning any further material, and to extinguish the fire if it is still causing a nuisance.
25. If the householder refuses and continues to cause a nuisance or repeatedly causes nuisance arrange to visit with a witness and a camera or a video camera and advise the householder that you intend to serve an abatement notice in terms of the Environmental Protection Act 1990.
26. It is good practice to advise the complainer to take detailed notes of the times and dates of occurrences of the nuisance and to warn him/her that if legal action is taken he/she may have to appear in court.
27. An alternative course of action for occasional offenders would be to send a warning or advisory letter. Such a letter must not state that a nuisance exists.
28. Obviously where there is no co-operation having to resort to sending letters or serving notice is not going to provide a quick and effective remedy but in some cases it may be necessary. If there is a possibility that the smoke may be causing a traffic hazard the police should be contacted as the perpetrator may be committing an offence under road traffic legislation and the police may be able to facilitate a more effective remedy.

## Guy Fawkes Bonfires

### 29. General

If bonfires are unlit and the complaint concerns :-

(a) LPG gas containers, aerosol cans or other flammable liquids —

advise complainers to call the Fire Safety Department at Fire Brigade Headquarters (01387 252222),

(b) polystyrene, tyres, plastic, etc. likely to cause black smoke —

the EHO should deal with the complaint and advise organisers/council department accordingly, i.e. to remove the offending material as it is likely to cause a nuisance. If there is no co-operation serve an abatement notice (*not in the case of council departments*) on the basis of a statutory nuisance likely to occur.

### 30. On Council Ground (excluding Council house gardens)

Refer complainants to the E&I (Grounds Maintenance) (and/or to the Fire Brigade if there is a perceived danger to persons or property). (See Appendix 7 for contact names in the E & I).

### 31. On Private Ground and Council House Gardens

If bonfires are lit invite complainants to contact the Fire Brigade if there is a perceived danger to persons or property or if it is dense black smoke which is the subject of the complaint (fire department will make a judgement).