

Conflict RESOLUTION

A new company aims to speed resolution of environmental disputes and offer expert advice to professionals, including EHPs, say founders David Horrocks and John Pointing.

Why did you start Statutory Nuisance Solutions?

We had worked together on a number of cases that were legally and technically complex. Some became more difficult over time and we thought if we can become involved at an earlier stage it would save time and money for local authorities and businesses.

Our organisation will offer local authorities, businesses, law firms, and other consultancies comprehensive advice on all aspects of statutory nuisance from a legal and a technical perspective. In the current economic climate the problem for local authorities and for businesses is to find easily accessible and affordable specialist advice.

We can work flexibly. Depending on the issue either David or John, or both, may become involved. We can also draw upon our associates if necessary, when specialist work is needed. We think it is important to work ethically and to provide advice and services at a reasonable cost.

What main services will you provide?

We will offer technical support in the investigation of alleged nuisance, legal advice, including the drafting of notices, and negotiation services with all parties towards achieving sustainable solutions. We will also offer dedicated training on all aspects of statutory nuisance customised to the needs of the organisation.

John is able to take direct legal instructions from clients without having to go through a solicitor, as he is registered under the Bar Council's direct public access scheme. This saves money where the involvement of solicitors as intermediaries is not necessary.

We will operate a 'pay as you go' subscription service.

Do you think it is important in nuisance cases to avoid going to court if possible?

Yes. Going to court should be a last resort. It is expensive, time-consuming and may not even resolve the problem satisfactorily.

It is nearly always better for all parties to arrive at a mutually agreed solution



'Going to court should be a last resort. It's expensive and time-consuming'
John Pointing

The founders



John Pointing researched the relationship between crime and offending before working for the Rainer Foundation, then Victim Support. He qualified as a barrister in 1992 and has since practised as an environmental lawyer. He has run professional training courses and lectured. The books he has written or edited include *Food safety enforcement* (Chadwick House 2005) and *Statutory nuisance: Law and practice*, 2nd ed. (Oxford University Press 2011), both with Rosalind Malcolm. The second edition of this standard practitioners' text on statutory nuisance will be published in September 2011.



David Horrocks worked for 16 years as an EHP, leaving local government as head of service at Brentwood BC. In 1992, he went into consultancy working on a range of issues including air quality, environmental and occupational noise, food safety, public health and hygiene and statutory nuisance. David has substantial experience of acting as an expert witness. He is an active member of the CIEH and for the past 15 years has been an accredited assessor for the CIEH's Assessment of Professional Development Scheme.

outside court. If a business applies itself seriously to ameliorating the environmental consequences of its operations, there is a good chance that long-term, sustainable solutions will be found.

Equally, local authorities are likely to achieve more through entering into detailed discussions with businesses on preferred outcomes, rather than by seeking a conviction through the courts. The public may also have unrealistic expectations about what courts can do. But sometimes going to court is necessary in order to clarify the law or because no other option is feasible.

What have been the landmarks in nuisance disputes and resolution in the past five years?

Two cases stand out. *Derrick Barr v Biffa Waste Services* [2011] EWHC 1003 concerned

a large group of residents on a Hertfordshire housing estate bringing a group litigation against a waste company. The *Biffa* case is very important because it clarifies the relationship between statutory authority and nuisance, though the company are appealing this part of the decision at the Court of Appeal. It also confirms that where an authorised activity takes place, negligence has to be shown if a decision about nuisance is to be sustained.

This case, and the High Court decision in *Rottenberg* [2007] EWHC 166 (Admin), highlight the importance of EHPs carrying out investigations thoroughly and reaching decisions about the nuisance threshold properly.

You can contact Statutory Nuisance Solutions through its website at: www.statutorynuisancesolutions.co.uk