

<p>Nuisance</p> <p>To protect peoples enjoyment of their land. Not much fault required – strict liability <i>Cambridge Water Co v Eastern Counties Leather</i></p>	
<p>Public Nuisance</p> <p>Is a crime – nuisance that can affect the comfort & convenience of group of public</p>	<p>Private Nuisance</p> <p>“unlawful interference with a person's use or enjoyment of his land, or some right over, or in connection with, that land”</p> <p>must go beyond normal interference.</p>

<p>Private Nuisance.</p> <p>Types of Nuisance – <i>Hunter v Canary Wharf</i></p>		
<p>(1) By Direct Injury.</p> <p>To neighbour's land. Courts more likely to find nuisance for physical damage to land. <i>e.g. flooding or noxious fumes.</i></p>	<p>(2) By Interference with Neighbour's quiet enjoyment of his land.</p> <p><i>e.g. smells, dust, noise</i></p>	<p>(3) By Encroachment.</p> <p><i>e.g. spreading roots or overhanging branches.</i></p>

<p>Establishing a Nuisance – Reasonable User Test.</p>		
<p>Balance between: Interest of D, to use/enjoy his land & Interest of C, to have quiet enjoyment of his land. <i>Sedleigh-Denfield v O'Callaghan</i></p>		
<p>Reasonable User must comply with:</p>		
<p>(a) Locality of Nuisance</p> <p><i>Sturges v Bridgman</i></p> <p>changes over time: <i>St Helens Smelting v Tipping</i></p> <p>matter of facts of each case: <i>Watson v Croft-Promo-Sport</i></p>	<p>(b) Sensitivity of C's use of Land.</p> <p>If C is unusually sensitive – irrelevant: <i>Robinson v Kilvert</i></p>	<p>(c) Duration of Interference.</p> <p>Higher frequency of interference – more likely to be nuisance <i>British Celanese v Hunt</i> <i>Crown River Cruise v Kimbolton Fireworks</i></p>
<p>(d) Public Benefit.</p> <p><i>Miller v Jackson</i> <i>Bamford v Turnley</i> <i>Marcic v Thames Water</i> <i>Dennis v MoD</i></p>	<p>(e) Malice</p> <p>Presence of malice will overcome D's objection to C's claim. <i>Christie v Davey</i> <i>Hollywood Silver Fox Farm v Emmett</i></p>	

<p>Claimant Must...</p>
<p>Have a Proprietary Interest.</p> <p><i>Hunter v Canary Wharf</i> <i>Malone Laskey</i></p> <p>Interest in parents home will suffice <i>Khoransandjian v Bush</i></p> <p>Impact of Art 8 <i>McKenna v British Aluminium</i></p> <p>Doors open for claims against public bodies <i>Dobson v Thames Water</i></p>

<p>Defendant Must be..</p>
<p>Creator of nuisance might not have deep enough pockets.</p> <p>Occupier of Land. <i>Mantania v National Provincial Bank.</i></p>

Occupier who adopts/continues nuisance created by trespasser.

Sedliegh-Denfield v O'Callaghan

Occupier who adopts/continues nuisance created by act of nature.

Goldman v Hargrave

Leakey v National Trust

Landlord.

If landlord has authorised it – liable.

Harris v James

Tetley v Chitty

unless legit exclusion clause - *Hussain v Lancaster*

must do a lot to try to prevent nuisance - *Lippiatt v South Gloucestershire Council*

Defences:

Ineffective Defences:

Coming to the Nuisance:

Miller v Jackson

Sturges v Bridgman

Utility:

Adams v Ursell

Dennis v MoD

Effective Defences:

20 year Prescription

'this has happened for such a long time how can you complain now?'

20 yrs starts when nuisance is noticed

Very hard to use this defence:

Sturges v Bridgman

Statutory Authority & Planning Permission

must be within what has been authorized.

Allen v Gulf Oil Refining

"margin of appreciation" - *Hatton v UK*

cannot bring after planning - *Hunter v Canary Wharf*

Remedies:

Damages

where possible – damages given.

Hunter v Canary Wharf

Injunction

Occasionally

Kennaway v Thompson

Abatement

Self-Help Remedy