

Motorbike Scrambling

The Problem

South Gloucestershire Council, the Police and Safer South Glos are receiving a growing number of complaints regarding the use of motorbike scramblers, mainly due to the noise and nuisance these bikes can cause if used irresponsibly. This information sheet aims to provide an outline of the law surrounding motorbike scrambling and the powers available to the Authorities if it is deemed that there has been a breach of the law.

What is a “scrambler”?

Whilst this information sheet is entitled motorbike scrambling, it actually refers to any number of mechanically propelled vehicles such as quad bikes, mini-motos, scramblers and scooters.

If a bike can travel over 5mph then it is classed as a mechanically propelled vehicle and as such is subject to the Road Traffic Act. This means that to ride this bike on the road you need to:

- Register the bike with the DVLA using form V555
- Make sure the bike has European Whole Vehicle Type Approval by contacting the Vehicle Operator's Standards Agency
- Tax the bike
- Make sure the bike is fitted with a number plate, lights and brakes.
- The rider must hold a valid driver licence
- The rider must be insured
- The rider must wear a kite marked motorcycle helmet

Motocross bikes are high-tech, powerful, highly tuned and quite noisy (more so when not maintained to original specification) and are sold 'for competition' - they are not road legal. They are recognisable by their 'style' - high mudguards, upright fuel tanks and 'safety seats', tall suspension, competition number plates, etc.

Mini-motos are recently becoming a popular present for children. They are essentially smaller replicas of full-sized motorbikes and, although often sold as toys, they can reach speeds of up to 60mph.

Quad bikes are four-wheeled all-terrain vehicles. They are designed for off-road use and do not usually conform to regulations in relation to tyres, lights, horn, speedometer, etc and it is therefore illegal to use them on the road. However, under new European law it is now legal to sell and use on the road 'quadracycles' - these are essentially quads with sufficient equipment to make them road legal - lights, mudguards, etc. Manufacturers are now selling a limited range of road-legal quadracycles in the UK

Scooters, also known as go-peds, comprise of a board, two wheels, a handle for steering and a fitted engine. Some models are capable of speeds up to 20mph. They are not legal for road or pavement use.

Use on roads and in public places

If a bike is to be ridden on a road or in a public place then it must conform to the Road Traffic Act as stated above.

The term 'public place' for the purposes of the Road Traffic Act 1988 has been defined as:

'Any place to which the public have open access is a public place even if payment must be made to gain entry'

This would include car parks, public parks, recreation grounds and public open spaces.

If a rider is found to be using a motor propelled vehicle on the road illegally on public roads and footpaths they can be prosecuted under road traffic legislation, fined and receive points on their license. Any penalty points handed out by the court will be kept on file and activated as soon as the rider is old enough to apply for a driving licence at 17.

Use on private property

Many people will turn to using bikes on private property as they do not have to comply with the Road Traffic Act. However, they can only be ridden on private property with the owners consent and they must not cross over any public footpaths.

Information for landowners

If you allow your land to be used for motorbike scrambling then you should check that that the usage complies with Town and Country Planning (Generally Permitted) Development Order 1995. This basically states that an agricultural field may be used for the purposes of non-competitive motorbike scrambling, without planning permission being required, for up to 28 days in a calendar year. In the event that the land is being used for the purposes of motorcycle 'racing', 'including trials of speed', or 'practising' for such events, then the use is permitted for only 14 days in a calendar year.

If complaints are received by the Council regarding alleged noise nuisance then legal action may be taken against landowners who permit the use of scrambling on their land or where access can be easily gained to the land which could otherwise be prevented. Under Section 80 of the Environmental Protection Act 1990 an Abatement Notice can be served to prevent the existence and recurrence of the nuisance. Failure to comply with the Abatement Notice is an offence which can result in prosecution proceedings being taken and fines of up to £5000 (£20000 for commercial premises).

Information for riders

The Police have powers under The Police Reform Act 2002 to confiscate a motor vehicle that is being, or has been, driven in a manner which contravenes section 3 of the Road Traffic Act 1988 (careless and inconsiderate driving) or section 34 of the Road Traffic Act (prohibition of off-road driving) **AND** is causing, or is likely to cause, alarm, distress or annoyance to members of the public. Once it has been seized the owner must currently pay a fee of £120 to have the vehicle returned.

Section 34 of the Road Traffic Act 1988 defines an offence as being a motor vehicle being driven

- a) on to or upon any common land, moorland or land of any other description, not being land forming part of a road, or
- b) on any road being a footpath or bridleway

Riding or driving a vehicle on a pavement is an offence under s72 of the Highway Act 1835. A fixed penalty notice can be issued by the Police.

If the vehicle is driven in such a way that it creates a noise nuisance then the Council can take action against the individuals responsible by serving an Abatement Notice under Section 80 of the Environmental Protection Act 1990. Failure to comply with the Notice is an offence which can result in fines of up to £5000 being imposed upon conviction. The Council also has powers to confiscate the scrambling bikes for non-compliance with the Notice.

Preventing a noise nuisance

Various agencies and organisations have worked together to conceive practical solutions to help alleviate the problems associated with motorbike scrambling. Particular attention should be paid to the following recommendations:

- a) Duration of operation – liaise with local people as to when is the most suitable time to hold an event. Sunday afternoons may not be the best day as people could be out enjoying their gardens. Keep times of operation to a minimum i.e. not all day.
- b) Number of vehicles – try to limit the number of vehicles.
- c) Screening - screening comes in various forms – trees (quite effective); earth banks and bunds (a bit hit-and miss - more guesswork than science); and landforms (former quarries and natural deep valleys do trap sound within).
- d) Track layout – for example, siting tight corners in screened areas helps mask the noise of downshifts into the corner and acceleration out.
- e) Masking - siting a track close to a noisy road can mean that the site's noise is masked by the (greater) road noise but this is not the case in all scenarios.

In addition, experience has shown that;

- Public address systems can sometimes be a bigger nuisance than engine noise.
- Competition racing machines are generally considerably noisier than road-going machines.

- It is very difficult to stop noise escaping from a site (trees, embankments, etc.) - it is easier to stop noise escaping from each machine in the first place.

Whilst vehicles owned and operated by schemes / companies on site can be regulated - vehicles brought in by members of the public tend to be noisier, and they may not be willing to have additional silencing.

The volume of noise produced by the machines is only one consideration in selecting and assessing possible sites. Machine noise has a 'character' - road vehicles produce a 'soft' noise, while modern four-stroke motocross bikes and race quads emit a real 'bark' that seems to carry a long way before dissipating. Where the earlier two-stroke motorcross bikes made an irritating rasp, that noise seemed to decline quite quickly as distance from the site increased. The character of the noise therefore has a direct bearing on the proximity of sites to habitation and places like country parks, where people will be out enjoying the open air.

Making a complaint regarding noise/dust nuisance

Officers from the Council are available to offer assistance and advise you of your rights before you make a formal complaint. Such advice would be on an informal basis, and you would not be required to supply your details.

Before registering your complaint with the Environmental Services Division you are advised to approach the persons causing the nuisance. Quite often this informal approach can resolve the problem on an amicable basis, but if this fails or you do not wish to make such an approach complain directly to the Environmental Services Division by telephone.

On making a complaint you will be asked to give your name, address and a daytime contact number, together with the address of the site you are complaining about, and details of the complaint. Anonymous complaints will not normally be taken, as they may be malicious. Your details will be treated with strictest confidence. Should the case end up going to court, however, you may be required to attend.

On receipt of your complaint, the case officer will contact you within 5 working days, either by letter, telephone, or in person to discuss the complaint.

If we cannot assist you with your complaint, we will explain why. If the matter is the responsibility of another agency or Department of the Council, we will either refer the matter on your behalf, or provide you with the appropriate information for you to do so yourself.

If the complaint refers to illegal riding of a motorbike on a public road or in a public place then you may wish to contact Avon and Somerset Police on 0845 4567000 or Crimestoppers on 0800 555 111.

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