

## Lived Experience - Subjective Evidence – Personal Evidence

Your diary and complaints history is your lived experience account of how you have been impacted by the wind farm and how it has interfered with your life.

It is your subjective evidence so it must be truthful, authentic, and defensible if cross examined in VCAT or Court.

*“To constitute a nuisance, the interference must be unreasonable. In making that judgment, regard is had to a variety of factors including: the nature and extent of the harm or interference; the social or public interest value in the defendant’s activity; the hypersensitivity (if any) of the user or use of the claimant’s land; the nature of established uses in the locality (eg residential, industrial, rural); whether all reasonable precautions were taken to minimise any interference; and the type of damage suffered.”*

[https://aucc.sirsidynix.net.au/Judgments/VSC/2022/T0145.pdf?fbclid=IwAR2KuU\\_Ygx7tZjPWK-vjoQTKk0zAKaIG-3hBOGWxnmt\\_xB2fDezVn7fzOaM](https://aucc.sirsidynix.net.au/Judgments/VSC/2022/T0145.pdf?fbclid=IwAR2KuU_Ygx7tZjPWK-vjoQTKk0zAKaIG-3hBOGWxnmt_xB2fDezVn7fzOaM)

## Diary

Your Diary is your record of the nuisance.

Your diary tells your story - describes how you have been impacted by the wind farm and the level of nuisance interference you have experienced. It is your personal record of your lived experience.

It is subjective evidence to be used by a third party, so it must be written up for others to view and/or to scrutinise.

1. Hand written – for authenticity.
2. Accurate - record the date and time of the nuisance.
3. Outlines what it is you are experiencing, how it makes you feel, and how it impacts your life.
4. Is the nuisance a noise, vibration, an inaudible sensation ?
5. What is the “damage that you suffer”. Does the nuisance interfere with your sleep, does it make you sick?
6. Sign each page or diary entry.

## Complaints

If you don’t complain – you don’t have a problem.

If you believe you are impacted by a nuisance then you must alert the wind farm and relevant authorities.

If you don’t submit a complaint, the wind farm cannot *“take reasonable precautions to minimise the interference”*.

Keep your complaints simple – it is not expected that you have any technical knowledge.

Your complaints must be authentic – not contrived. Complaints must reflect your diary evidence.

Submit your complaints via email for an evidence history trail, as sometimes website portals don’t provide you with a copy of your complaint’s submission.

Submit your complaints to the wind farm, local council, EPA and wind farm commissioner in the first instance.

Ensure you cooperate with instructions as reasonably practicable. Continue to engage through email .

Don’t be deterred if you keep getting fobbed off. Continue to request your case remains open and your nuisance problem is addressed.

## What Evidence do you give the Wind Farm?

It is important to engage with the wind farm and cooperate as far as practical - but beware of “fishing” requests.

You don’t need to provide technical information. It is not expected you are a technical expert with objective data.

Your diary is your subjective evidence, so be very cautious of handing it over to the wind farm.

If a wind farm requests a copy of your diary, ensure you cooperate. Perhaps provide them with a summary of a page from your diary, so they can understand the extent of the nuisance.

***If you have any concerns about the extent of documentation you provide the wind farm, contact your lawyer.***