

Complaint process for disturbance in and around licensed premises

The *Liquor Licensing Act 1990* places very clear obligations on licensees to ensure that the sale and consumption of liquor on licensed or permitted premises does not cause undue annoyance or disturbance to people living, working or worshipping in the neighbourhoods of the premises or allowing disorderly conduct to occur in the premises or in the neighbourhood of the premises.

The Problems

Complaints often arise from activities of patrons causing annoyance or disturbance in the vicinity of licensed premises. These activities may include noisy vehicles, noisy patrons, vandalism, littering and urinating.

Another form of annoyance or disturbance could be excessive noise from bands or recorded music emanating from a licensed premises. Complaints of this nature in the first instance should be directed to local councils who are empowered under the *Environmental Management and Pollution Control Act 1994* to investigate the complaint.

The Law

The *Liquor Licensing Act 1990* authorises the sale of liquor between 5am and midnight for general licences, on-licences, club licences and some special licences.

If a licensee wishes to sell liquor at times between midnight and 5am, the licensee must apply for an out-of-hours permit. Applications for out-of-hours permits are considered on a case by case basis by the Commissioner for Licensing.

The Act requires that the Commissioner must not grant an out-of-hours permit in respect of licensed premises unless the licensee satisfies the Commissioner that the sale of liquor on those premises in accordance with the permit sought would not-

- a. cause undue annoyance or disturbance to-
 - people living or working in the neighbourhood of the premises; or
 - customers or clients of any business in the neighbourhood of the premises; or
 - people conducting or attending religious services or attending a school in the neighbourhood of the premises.
- b. cause the occurrence of disorderly conduct-
 - in the premises; or
 - in the neighbourhood of the premises.

Out-of-hours permits may carry specific conditions. These may include the ability (or otherwise) to sell liquor for removal from the premises; whether security staff must be employed; and any other measures to be taken to suppress or limit annoyance and disturbances or disorderly conduct.

Conditions may also be imposed or varied on an existing out-of-hours permit if the Commissioner is satisfied that the sale of liquor on the premises is causing undue problems during the hours of the permit.

Furthermore, the *Environmental Management and Pollution Control Act 1994* provides for offences in respect to breaches of that Act and are enforceable by police and council officers.

How to Deal with a Complaint

If, as a neighbour, you have a complaint relating to the conduct of licensed premises, a first step is to bring your concerns to the attention of the licensee.

Where possible, provide the licensee with the details of your concerns including the date(s) and time(s) annoyance or disturbance has occurred. It is beneficial for both parties to maintain an amicable approach to noise and disturbance issues and maintain an open line of communication so that problems can be resolved at the earliest possible time.

If, however, you are not satisfied with the actions taken by the licensee to deal with the issues you have raised, you can make a complaint.

If the problem is limited to music or entertainment noise emanating from the premises, the complaint needs to be directed to the local council to be resolved under the provisions of the *Environmental Management and Pollution Control Act 1994*.

If the complaint is in relation to the sale and consumption of liquor, the complaint can be directed to the Commissioner for Licensing.

Finding Solutions

Upon receipt of a complaint about problems relating to licensed premises, the Commissioner will have the matter investigated. A licensee may be required to respond to the concerns raised by the complainant if the Commissioner is satisfied that the disturbance and annoyance issues are undue and are caused by the sale and consumption of liquor.

Rectifying action licensees may take includes:

- Providing security staff to monitor the arrival and departure of patrons.
- Ensuring that cleaning of the public areas/streets around the premises is undertaken.

If proven problems remain unresolved, the Commissioner may issue a fine, suspend or cancel a licence, cancel a special liquor permit, cancel an out-of-hours permit, vary or impose additional conditions or refuse to renew/issue an out-of-hours permit.

If the problem is limited to only noise emanating from the premises, the matter would be referred to the local council to resolve under the provisions of the *Environmental Management and Pollution Control Act 1994*. In certain circumstances where there may be a range of issues, a collaborative approach by council and the Commissioner may occur to resolve a particular complaint.

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