

Licensee's responsibilities in relation to complaints of 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 neighbourhood of the premises or disorderly conduct not being allowed 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 would usually be dealt in the first instance by local councils or police who are empowered under the *Environmental Management and Pollution Control Act 1994*.

Most noise and disturbance complaints relate to late at night through to the early hours of the morning.

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.

The *Environmental Management and Pollution Control Act 1994* provides for offences in respect to breaches of that Act for noise related issues and is enforceable by police and council officers.

How to Deal with a Complaint

If, as a licensee, you receive a complaint relating to the conduct of your premises from a neighbour, try to establish the date(s), time(s) and nature of the annoyance or disturbance. This will allow you to identify the main issues of the complaint and to address them if appropriate.

It is beneficial for both parties to maintain an amicable approach to noise and disturbance issues and to maintain an open line of communication so that problems can be resolved at the earliest possible time.

If however, the matter cannot be resolved to the satisfaction of the complainant, that person may take their complaint to the Commissioner for Licensing, or if the issue is related to entertainment noise, to the local council or police.

Finding Solutions

Upon receipt of a complaint concerning problems relating to licensed premises, the Commissioner will have the matter investigated. If proven, the licensee may be required to respond to the concerns raised by the complainant.

Rectifying action licensees may take includes:

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

Remember - it is important for licensees to be good neighbours

If proven problems remain unresolved, the Commissioner may issue a fine, cancel an out-of-hours permit, vary or impose additional conditions or refuse to renew 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* or in some circumstances where there may be a range of issues, a collaborative approach by council and the Commissioner for Licensing may occur to resolve a particular complaint.

Helpful Hints for Licensees and Managers

Addressing the following can go a long way toward ensuring that your business does not become a neighbourhood problem:

- Staff Training
 - Personnel trained in the Responsible Serving of Alcohol can help minimise the risk of intoxicated patrons leaving your premises.
- Patrons
 - Are signs in place requesting patrons to be mindful of the neighbourhood?
 - Do you have adequate security and lighting in areas such as car parks?
 - Can you re-position the cab rank away from neighbours?
- Entertainment
 - Ensure that doors and windows are closed during entertainment.
 - Direct the speakers away from your neighbours.
 - Can entertainment be held in an area of the premises away from neighbours?
 - Ensure that there is a sound lock on the entry door to the entertainment area.
 - Ensure that the design and structure of your premises will contain noise likely to be generated by entertainment.
 - Walk outside the premises and listen to noise levels. (If you can make out the words to a song, or hear the beat of the music, it is too loud!)
 - Consider using a sound limiting device.
- Motors
 - Are all motors adequately maintained?
 - Is it necessary to run motors all night (e.g. mechanical ventilation)?
 - Can motors be baffled, or re-positioned away from neighbours?

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