

Legal responsibilities

The Code of Practice, under Section 42 of the *Liquor Licensing Act 1997*, provides that a licensee has an obligation to minimise the amount of

- » offence
- » annoyance
- » disturbance
- » noise
- » inconvenience

to people who live, work or worship in the vicinity of licensed premises which results from activities on licensed premises or the conduct of people making their way to or from the licensed premises.

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Government
of South Australia

Office of the Liquor and
Gambling Commissioner

NOISE AND LICENSED PREMISES



*WHAT TO DO IF YOU HAVE A
PROBLEM WITH NOISE AND/OR
PATRON BEHAVIOUR IN AND
AROUND LICENSED PREMISES*

Licenses' obligations

The licensing authority (the *Office of Consumer and Business Affairs* and the *Licensing Court*) must have regard to the potential effects that noise and other disturbances may have on those who live, work or worship near licensed premises before granting or removing a licence or granting an extended trading authorisation or an entertainment consent.

For this reason the licensing authority may, when determining an application, impose conditions on a licence to minimise the noise and disturbance to those who live, work or worship nearby.

If you have concerns about noise or patron behaviour, please contact this Office for advice.

Complaint procedures

If you find that noise emanating from licensed premises, or the behaviour of persons making their way to or from licensed premises, is unduly offensive, annoying, disturbing or inconvenient to you as a nearby resident, worker or worshipper, you can lodge a complaint with the *Office of the Liquor and Gambling Commissioner* (contact details are on the back of this brochure).

A complaint must be made by at least 10 people who live, work or worship within the vicinity of the licensed premises.

However, if the Commissioner is satisfied by the nature or gravity of the complaint, a complaint made by fewer people may be accepted.

When a complaint is made, the Commissioner will serve a copy of the complaint on the licensee within 7 days of lodgement and allow 14 days from the date of service before the matter progresses to conciliation or hearing. This is to ensure that the licensee is aware of the concerns and provides an opportunity for the licensee to address the problem, or for the parties to resolve the problem together.

If you feel comfortable in doing so, it is recommended that you raise your concerns directly with the licensee before lodging a complaint with this Office. The matter may be resolved quickly without outside intervention.



Remedies

The Commissioner will attempt to conciliate between you and the licensee. If the matter is resolved by conciliation, then the terms of settlement may become conditions of the licence.

If conciliation cannot be achieved, the parties choose whether the matter will be referred to the *Licensing Court* or dealt with by the Commissioner as a contested hearing.

In some circumstances the Commissioner may issue direction to, or impose conditions on, the licensee before or during the conciliation proceedings about the subject of the complaint.

If the matter proceeds to a contested hearing, the licensing authority will take into account a number of relevant factors including:

- » the period of time the activity has been occurring
- » the trading hours and character of the business
- » the desired future character of the area in which the licensed premises is situated
- » the history of the premises, including any history of live music
- » whether or not the noise from the premises is reasonable in the circumstances
- » any environment protection policies that exist under the *Environment Protection Act 1993* that apply to the provision of live music on the premises
- » any other matter that the Commissioner or the Court considers relevant.

Each case will be considered on its merits, considering all relevant factors.

