



COMPLAINTS RELATED TO LICENSED PREMISES



Information Bulletin No. 19

Liquor Control Act 1988

INTRODUCTION

Section 117 of the *Liquor Control Act 1988* (the Act) provides for a complaint to be lodged against a licensee if the noise coming from, or the behaviour of patrons at, a licensed premises is affecting the people residing in or attending premises such as a school or hospital in the neighborhood.

WHO MAY LODGE A COMPLAINT?

A complaint may be made by –

- the Commissioner of Police;
- a government agency or statutory authority;
- the local council of the district in which the premises are situated, or any adjacent council; or
- a person claiming to be adversely affected by the issues outlined in the complaint who —
 - resides, works or worships;
 - attends, or is a parent of a child who attends, a school; or
 - attends, or is a patient in, a hospital,

in the vicinity of the licensed premises concerned.

In respect to the above, where a *person* lodges a complaint, the complaint must be signed by 3 unrelated adults (including the complainant).

Notwithstanding the fact that a complaint must be made by three (3) or more *unrelated* adult persons, the licensing authority may continue to determine the complaint even if one or more of the complainants subsequently withdraws their complaint.

Grounds of Complaint

A complaint in writing may be lodged with the Director alleging –

- that the amenity, quiet or good order of the neighbourhood of the licensed premises is frequently unduly disturbed by reason of any activity occurring at the licensed premises; or
- that any –
 - behaviour of persons on the licensed premises;
 - noise emanating from the licensed premises; or
 - disorderly conduct occurring frequently in the vicinity of the licensed premises on the part of persons who have resorted to the licensed premises,

is unduly offensive, annoying disturbing or inconvenient to persons who reside or work in the vicinity, or to persons in or making their way to or from a place of public worship, hospital or school.

(section 117)

DETERMINATION OF COMPLAINTS

Once a complaint has been lodged with the licensing authority, in the first instance, an attempt will be made to resolve the issues of the complaint in respect to noise and behaviour with the licensee and the complainant through conciliation or negotiation. However, if the complaint cannot be resolved through conciliation or negotiation, the Director may determine the matter.

If during a conciliation conference the parties reach agreement on the outcome of a complaint and the licensing authority is satisfied that a decision in the agreed terms is lawful, the licensing authority should have regard to the terms reached and may make a decision varying the conditions of licence in a manner that is consistent with those terms.

Similarly, where conciliation or negotiation of the complaint can not be reached, the licensing authority may, by notice in writing, require the licensee to show cause why an order should not be made in relation to the complaint. Alternatively, the licensing authority may call a hearing which both the licensee and the complainant(s) will attend. Each party will be given the opportunity to outline their case and the Director will consider the merits of the information provided.

When determining a complaint, the Director may have regard to –

- any alteration, including any structural change, made –
 - to the licensed premises; or
 - to any relevant premises where the complainant (or the complainant's child) resides, works, worships, attends or is a patient;
- any changes that have taken place over time to the activities occurring on the licensed premises; and
- the kind of business conducted under the licence and how that business is managed; and
- whether the complainant or complainant's child began to reside, work, worship, attend or be a patient at any relevant premises before or after the licensee began to conduct business at the licensed premises; and
- any provision of the Environmental Protection Act 1986, or of any regulations made under the Act, that is relevant to the subject matter of the complaint.

The Act defines "3 unrelated adults" as –

3 adults each of whom –

- resides at different residential premises; and
- is not –
 - a child; or
 - a parent; or
 - a brother or sister; or
 - an aunt or uncle; or
 - a spouse or former spouse; or
 - a de facto partner or former de facto partner, of either of the other 2 adults.

Parties may have legal representation, however it is not a requirement and no costs can be awarded against the parties.

Whether pursuant to conciliation or negotiation or by way of an order, the Director may –

- vary the existing conditions of the licence;
- redefine, or redesignate a part of, the licensed premises;

- prohibit the licensee from providing entertainment or any other activity of a kind specified by the Director during a period specified by the Director or otherwise than in circumstances specified by the Director, and impose that prohibition as a condition to which the licence is to be subject; or
- otherwise deal with the matter in such a manner as is likely, in the opinion of the Director, to resolve the subject matter of the complaint.

REVIEW OF DECISION BY COMMISSION

Any party to the complaint proceedings may apply to the Liquor Commission for a review of the Director's decision if they are dissatisfied with the determination.

An application for the review of a decision must be lodged with the Commission within a month after the parties receive notice of the decision.

Any order made by the Director remains in force until quashed by the Commission, or revoked by the Director.



GENERAL COMPLAINTS

Where a person considers that a licensee has contravened this Act, the Regulations, the licence or permit, or a condition of the licence or permit, the person may lodge a complaint in writing with the licensing authority.

The complainant in this case will not, however, be deemed to be a party to proceedings for the purposes of any disciplinary action that may be taken against the licensee, following an investigation by the licensing authority.

LODGING A COMPLAINT

A complaint may be made in writing, however, before lodging the complaint with the Director, the complainant must first serve a copy of the complaint on the licensee and allow sufficient time for the licensee to rectify the cause of the complaint. If the licensee does not rectify the cause of the complaint within a reasonable time frame, the complaint may be pursued with the Director of Liquor Licensing.

There is no fee payable for the lodgement of a complaint.

Disclaimer

This Bulletin is designed to provide authoritative information in regard to the subject matter covered, and with the understanding that the Director is not passing legal opinion or interpretation or other professional advice.

The information is provided on the understanding that all persons undertake responsibility for assessing the relevance and accuracy of its contents.

LIQUOR CONTROL ACT 1988
Section 117

COMPLAINT ABOUT NOISE, DISTURBANCE ETC

To the Director of Liquor Licensing

Please print neatly in **BLOCK LETTERS**

1. CONTACT DETAILS FOR THE COMPLAINT

(a)	Full name: _____
(b)	Postal address for service of documents: _____ _____ Post Code: _____
(c)	Daytime contact Name: _____ Telephone number: () _____ Mobile: _____ Email Address: _____

2. DETAILS OF LICENCE COMPLAINED AGAINST

(a)	Licence number: _____
(b)	Name of Licensed Premises: _____
(c)	Address of Licensed Premises: _____ _____ Post Code: _____
(d)	Name of Licensee: _____

3. STATUS OF COMPLAINANT

The complainant lodges this complaint:-	
<input type="checkbox"/>	as or on behalf of the Commissioner of Police
<input type="checkbox"/>	on behalf of _____ being the council of the municipality in which the licensed premises are situated
<input type="checkbox"/>	on behalf of _____ being the council of the municipality adjacent to the licensed premises
<input type="checkbox"/>	as a person claiming to be adversely affected by the subject matter of the complaint. (Please note that a complaint may only be made by three or more unrelated persons, unless special circumstances apply.)

4. DETAILS OF COMPLAINT

Outline the matters which have given rise to the complaint or attach a submission detailing these matters: _____

**Please attach separate additional pages if the space here is not enough*

5. DECLARATION

This complaint about noise and disturbance is hereby made in accordance with, and on the basis of the information set out above.

Dated the _____ day of _____ / _____

IDENTITY OF COMPLAINANT - LIST AT LEAST THREE UNRELATED ADULT INDIVIDUAL PERSONS:-

Name of Complainant 1 *(please print clearly)*

Signature of Complainant 1

(b) Postal address for service of documents: _____

_____ Post Code: _____

(e) Daytime contact Name: _____

Telephone number: () _____

Name of Complainant 2 *(please print clearly)*

Signature of Complainant 2

(b) Postal address for service of documents: _____
_____ Post Code: _____

(e) Daytime contact Name: _____
Telephone number: () _____

Name of Complainant 3 *(please print clearly)*

Signature of Complainant 3

(b) Postal address for service of documents: _____
_____ Post Code: _____

(e) Daytime contact Name: _____
Telephone number: () _____

**Please attach additional pages for additional complainants*

Level 2, Gordon Stephenson House, 140 William Street, Perth Western Australia, 6000
Postal Address: PO Box 6119, East Perth, Western Australia, 6892
Tel: (08) 6551 4888 **Facsimile:** (08)9325 1041 **Country Callers:** 1800 634 541
Email: rgl@rgl.wa.gov.au **Web Site:** www.rgl.wa.gov.au