

Dealing with Noise Complaints

August 2015

This guideline has been prepared by the Australian Hotels Association (WA)

Contents

Introduction	2
Noise	3
Who is responsible for noise?	3
Guide to Noise Levels	3
Noise levels for everyday situations	4
Early Intervention Checklist	5
Bring on the Noise	6
Know your noise limits	6
Communication – Engaging with your Neighbours	7
Operational Noise Reduction	8
Responding to Noise Complaints	9
Creating a Sound Management Plan	10
Department of Racing Gaming & Liquor	12
Section 117 Noise Complaints	12
Who can lodge a complaint?	12
Grounds for a complaint	12
Matters considered by the Director	12
Why is 'undue' noise important?	13
Complaint process	13
Director's Determination	14
Appeal or Review by Liquor Commission of Western Australia (LCWA)	14
Local Government	15
Noise Complaints Process	15
Enforcement Action	15
Options to Appeal	15
Management of Outdoor Areas	16
WA Police	17
Noise Complaints Process	17
Overview of S117 Complaint Process	18
Useful Links	19

Introduction

Across Western Australia, operators of hotels, pubs, taverns and small bars spend considerable time, money and resources responding to noise complaints from nearby residents.

Over the past decade, the hotels and hospitality industry have experienced an increase in noise complaints as more people chose to live closer to traditional hospitality precincts.

While the appeal of living within walking distance from a diverse range of food, beverage and entertainment options may have been the motivation for moving; many still expect the quiet of suburban life.

Unfortunately, hospitality doesn't finish when patrons go home.

During peak hospitality business hours from 7pm to 7am, venues are expected to reduce noise to a lower level which many businesses find difficult to meet.

Recent cases have confirmed the difficulty of complying with current noise and liquor licensing legislation in both metropolitan and regional areas but also demonstrate that good management practices are critical to getting a successful determination.

This guide has been developed by the Australian Hotels Association WA to help you understand the noise complaint process; provide you with practical advice and steps to proactively responding to noise complaints.

VJ15JUL007 Page **2** of **20**

Noise

Noise is defined under the *Environmental Protection Act 1986* (EP Act) as a "vibration of any frequency, whether transmitted through air or any other physical medium."

Who is responsible for noise?

The main agency for dealing with noise complaints relating to liquor licensed premises is the Department of Racing, Gaming and Liquor (the Director) under Section 117 of the Liquor Control Act 1988 (LCA). Under this section, the Director, may have regard to prescribed noise levels under the EP Act.

However, Local Government have enforcement powers to deal with domestic, commercial and general industry noise under the EP Act. This includes liquor licensed premises.

WA Police have powers to deal with such activities as noisy parties, using the 'unreasonable noise' provisions of the EP Act, instead of the Regulations.

Guide to Noise Levels

The Environmental Protection (Noise) Regulations 1997 (<u>EP Noise Regulations</u>) and are applied uniformly across WA.

Hospitality venues across WA are allowed to emit no more than 50dB (allowing only a small margin for influencing background noise) for no more than 1% of time during peak hospitality times, Monday to Sunday between 7pm and 7am.

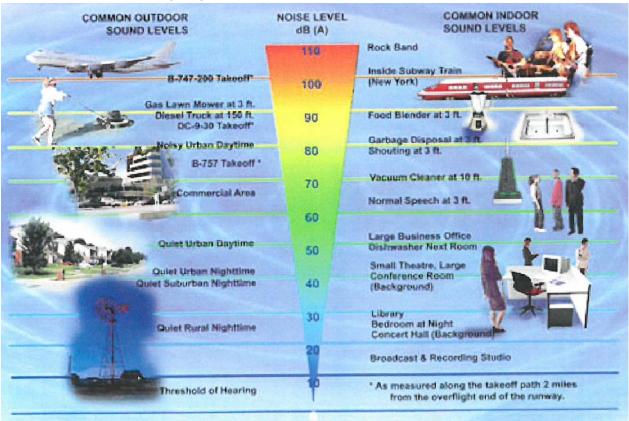
Type of premises receiving	Time of day	Assigned level (dB)		
noise		not to be exceeded for	exceeded for more than 1%	L A max not to be exceeded at any time
Noise sensitive premises within 15 metres from a building directly associated with a noise sensitive use*	0700 to 1900 Mon-Sat	45 + influencing factor	55 + influencing factor	65 + influencing factor
	0900 to 1900 Sun-pub hols	40 + influencing factor	50 + influencing factor	65 + influencing factor
	1900 to 2200 all days	40 + influencing factor	50 + influencing factor	55 + influencing factor
	2200 hrs to 0700 Mon-Sat & 0900 Sun-pub hols	35 + influencing factor	45 + influencing factor	55 + influencing factor
Noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use*	All hours	60	75	80

Adjustments to assigned levels can be made it characteristics of tonality, modulation or impulsiveness are present in the noise.

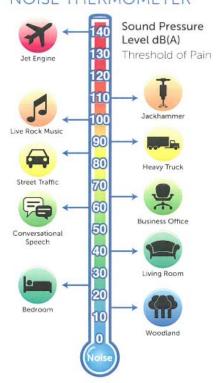
VJ15JUL007 Page **3** of **20**

The calculation of the permitted noise levels is very complicated and it is advisable to engage an accredited acoustic engineer to conduct a "reading" of the noise levels and see if it is within the assigned levels – decibel (dB) under the noise regulations.

Noise levels for everyday situations



NOISE THERMOMETER



VJ15JUL007 Page 4 of 20

Early Intervention Checklist

This checklist has been provided as a guide to some of the early inventions practices you can put in place to ensure your venue is prepared.

Do you know the level of noise your venue produces relative to your closest noise sensitive property?		
Do you know the maximum level of noise your venue is able to produce between 7pm & 7am?		
Do you know what noise is emitted from your venue at all times?		
Are noise management procedures included in your Management Plan and does it cover: - Any live and electronic music performances; - Noise management practices; - noise limits on your sound equipment; - procedures to control and manage patron behaviour including dispersal; and - management practices to deal with complaints;		
Are you managing daily operational noise caused by your venue:		
Do you have a designated contact for complaints?		
Do have a process in place to ensure you keep accurate records of: - registration of complaints - correspondence / discussion with complainants - actions taken to remedy concerns.		
Do you have a communications or community engagement strategy in place?		

VJ15JUL007 Page **5** of **20**

Bring on the Noise

The prospect of dealing with a noise complaint can be quite daunting but there are some actions you can take to prepare for any possible action.

Know your noise limits

To ensure that the impact your venue has on your neighbours and local community is not "unreasonable" and/or exceeds prescribed noise limits it is advisable to know your noise limits.

The measurement of noise and assessment of allowable limits is under the EP Act is extremely complex and a sound engineer / acoustic consultant is able to provide venues with the following services:

- Measurement and Analysis
- Predictive Modelling
- Control advice and design
- > Reporting for environmental and occupational noise impact assessments
- Advice on noise policy and standards

Local government authorities (e.g. environmental health officers) can arrange to measure the level of noise at your venue. If the noise level is over the limit and interferes with another person, the council can take action.

VJ15JUL007 Page **6** of **20**

Communication – Engaging with your Neighbours

Getting to know your neighbours is a good first step towards not only gathering local support for your venue but an investment in establish long-term relationships that will help you identify problems before they escalate. Developing an effective communication strategy will help you establish open lines of communication.

KNOW YOUR Identify key stakeholders close to your venue. Take particular **NEIGHBOURS** note of noise sensitive premises which include: Residential homes / apartments Accommodation hotels Hospitals Schools Write to your neighbours introducing your venue provide them INTRODUCE YOURSELF with a designated contact to call with any concerns. Consider hosting an event to: meet your neighbours; showcase your venue; talk about good management practices in place; introduce your management staff; and provide an update on upcoming activities. Note: Registration sheets can allow for the collection of more detailed information a more comprehensive mailing list for future communications. PRO-ACTIVE There are a number of opportunities to proactively engage and improve relationships with neighbours: **ENGAGEMENT** Develop а Neighbourhood Reward Scheme discounted tickets and invitations to enjoy special rates on food & beverage; Regular updates on upcoming events; Engagement in upcoming social/community events. These messages can be communicated through traditional distribution channels like letterbox drops and mail but also through subscribe-able email and online platforms including Facebook, Twitter and Instagram. MANAGE Advance notice of anything that may adversely impact on your **EXPECTATIONS** neighbours will help manage expectations. Some examples include: Changes to your license including variations or applications for extended trade; and Advice on planned works or refurbishments to improve your venue. Flyer drop for loud live music events **STAY ENGAGED** Designate a Community / Live Music Liaison. Have business cards with a direct mobile and email contact that can be attached to communications. This person should be someone capable of dealing with concerns or complaints in a patient, non-hostile manner.

VJ15JUL007 Page **7** of **20**

RECORDKEEPING	Ensure that you record any engagement or action taken in response to a complaint in your Incident Report. This may assist you down the track if the neighbours lodge a complaint with Police, Local Government Authority or the Department of Racing, Gaming & Liquor.
FEEDBACK	Developing an Annual Satisfaction Survey to see how your communications strategy is working.

Remember that good communication and compromise may not stop some neighbours from complaining but it's important to demonstrate that you've been responsive to their concerns.

Operational Noise Reduction

There are measures that can be put in place around everyday operations that can be effective in reducing noise at your venue. Some examples include:

APPROVED MANAGERS	Regular staff meetings are an opportunity to brief staff on issues or potential concerns. Complaints sometimes arise when new managers are employed, and a venue may not run as well as it did previously. Ensure staff is aware of standards expected of them and your venue.
RSA PRACTICES & TRAINING	Ensure compliance with service requirements to be trained in 'responsible service of alcohol' practices and procedures Consider training glass collection staff in RSA. When circulating the venues, they can observe and identify problematic patrons who may be causing anti-social behaviour, nearing intoxication or creating excessive noise.
SECURITY	Security during peak periods may assist in managing noise and antisocial behaviour. Security staff, managers or door hostesses engaged to monitor entrances are able to maintain strict patron screening, compliance with dress code, age and sobriety requirements. They are also able to remind patrons leaving the venue to leave quietly and respect neighbours.
DRESS STANDARDS	Dress standards can be enforced by a venue to manage patron dress and institute expectations of standards.
ALCOHOL	Drinks menus can help discourage rapid consumption of alcohol through product, pricing and targeting it to your preferred patron.
EQUIPMENT	Ensure you have considered the potential for any sound or industrial to contribute to your venue's noise levels. It may be necessary to conduct and record noise readings with new equipment to ensure compliance with noise regulations.
EVENTS	To manage expectations from guests hiring venues for functions or events, it may be appropriate to develop strict 'terms and conditions' to minimise the potential for disturbance to neighbours. These may include: - Time limit for any live or recorded music. - Time limit for alcohol service. - Limit access to any outdoor areas after a designated time. Although these conditions are not always popular with their implementation is important to minimise potential risk of disturbance to patrons.

VJ15JUL007 Page **8** of **20**

CLOSING	Implement procedures for closing at the end of each night's trade to minimise the risk of noise or disturbance being caused to local residents and to encourage the gradual and orderly egress of patrons: (a) Lights up at 30 mins before closing; (b) Bar service ceases 15 mins before closing; (c) Venue cleared no later than 15 mins after closing; (d) Security patrols of nearby street	
INTERNAL PROCEDURES - VENUE PATROLS	Instruct management and security to patrol the venue during peak trading hours to observe and assess patrons. Ensure that responsible service of alcohol policies are maintained (i.e. check for early signs of intoxication) and to ensuring that patrons maintain conversation volume at a reasonable volume at all times. Monitor larger groups of patrons closely. If a particular group of patrons is starting to vocalise too loudly, a manager should approach the group and politely ask them to enjoy themselves quietly and to consider our neighbours and other patrons. In almost all cases patrons comply with these requests without fuss.	
TAKEAWAYS	Consider whether this is allowed or appropriate for your venue.	

Responding to Noise Complaints

In responding to any noise complaint, licensees will have an opportunity to respond directly to the complainant and attempt to rectify or resolve any valid concerns of the complainant.

Accurate records of consultation, community engagement, operational practices and action taken to respond to complaints will make it easier to compile necessary documentation to establish a burden of proof.

This will allow you to highlight good communication and management practices at your licensed premises.

For example, this should:

How a complaint can be made at your venue

- Is it sufficient for the complainant to call the approved manager on duty?
- Must the complaint be in writing to your venue?

How quickly after a complaint is made does your venue respond

• Do you respond within 24hrs or 48hrs etc.?

How will you respond to the complaint?

- Do you request the complainant to come into venue for a chat?
- Do you meet at a mutually agreed venue/public space?
- Do you simply email the complainant or talk on the phone to resolve issue?

After 'dealing' with the complaint

- If you and the complainant have agreed on mutual steps that can be taken to mitigate
 or reduce the complaint, note this down in your Incident Register and have all
 parties sign (where possible).
- Consider a period of time to "follow up" with the complainant and see how things are going?
 - o Are the steps working?
 - o Is there room for improvement?
 - o If yes, how can this be achieved?
- Record in your Incident Register every time you have corresponded with the complainant and what the outcome was.

VJ15JUL007 Page **9** of **20**

If no agreement can be reached

- Still proceed to document the process that was undertaken by the venue to deal with the complaint.
- If the matter is not resolved that this stage, these records will be crucial in highlight to the Director, how you have attempted to resolve the issue in a responsible manner.

Creating a Sound Management Plan

Under section 5(1)(b) of the LC Act that all licensed premises develop and maintain a Harm Minimisation Policy, Code of Conduct and Management Plan.

The Management Plan sets out the way in which a licensee intends to operate their premises and how you deal with complaints including noise complaints.

A sample of how your responses might be incorporated in your management plan to minimise any undue offence, noise or disturbance is set out below.

Entertainment:

- ➤ Entertainment will be of a kind that complies with the law and any conditions imposed on the license by the Licensing Authority, or any requirements of or directions given by other relevant authorities.
- The providers of entertainment will be made aware by the Approved Manager of requirements both general and special that are in place concerning the provision of entertainment at the Premises.
- Any complaint by a member of the public that they are experiencing undue offence, noise or disturbance as a result of entertainment being provided at the Premises will be brought to the attention of the Duty Manager who will take reasonable steps to resolve the matter (if possible). All complaints are to be recorded in the appropriate register.

Creating a Safe Environment:

Residents of houses within the vicinity of the Premises should not have their peace and quiet unduly disturbed by noise from the Premises or the behaviour of patrons as they leave the Premises. To facilitate these objectives:

- > Staff should ensure that reasonable measures are in place to minimise the escape of undue noise from the Premises.
- > Staff should promote and encourage amongst patrons a respect for the amenity of the neighbourhood in which the Premises is situated, and rights of residents not to be unduly disturbed by patrons' behaviour on or off the Premises.
- > Staff will take reasonable steps to prevent patrons from leaving the Premises with open cans, bottles or with glasses.
- > Staff may cease the sale of liquor 15 minutes prior to closing time.
- > Staff will collect on a regular basis empty and discarded glasses, cans and bottles throughout the Premises.
- Management may make provision for the engagement of licensed crowd controllers and security personnel (where necessary).

VJ15JUL007 Page **10** of **20**

- ➤ Staff to ensure that bin are not being emptied at a time deemed unreasonable. For example; 7am 7pm is the allocated times for maximum noise. However, as a general rule of thumb, bins should definitely not be emptied past 10pm.
- Management will arrange for the removal of litter at a reasonable time, from residential areas surrounding the Premises, if it is established that such litter is directly linked to products sold at the Premises and the established behaviour of patrons of the Premises.
- Management if required will arrange and facilitate regular meetings with local residents and other interested persons relating to activities at the Premises.
- Any complaint by a member of the public that they are experiencing undue offence, noise or disturbance as a result of the operation of the Premises will be brought to the attention of Management who will take reasonable steps to resolve the matter (if possible). All complaints are to be recorded in the appropriate register.
- > The name and contact number of an approved manager should be displayed at all operating times, allowing people to contact the approved manager if any problems arise.

VJ15JUL007 Page **11** of **20**

Department of Racing Gaming & Liquor

Section 117 Noise Complaints

Noise and behaviour complaints relating to liquor licensed premises are dealt with by the Director of Liquor Licensing of the Department of Racing, Gaming and Liquor (DRGL) under <u>Section 117</u> of the Liquor Control Act 1988 (LCA).

A <u>Director's Policy "Complaints Lodged under Section 117 of Liquor Control Act 1988"</u> also provides guidance on the legislative and operational requirements associated with Section 117.

Who can lodge a complaint?

The following agencies and persons are permitted to lodge complaints under the LC Act:

- Commissioner of Police
- Local Government
- Impacted government agencies or statutory authorities
- Members of the local community who:
 - live, works or worship nearby
 - attend, or are a parent of a child who attends, a nearby school
 - attend, or are a patient in, a hospital, in the vicinity of the licensed premises concerned.

Grounds for a complaint

Complaints can be lodged where it is believed the amenity, quiet or good order of the neighbourhood of the licensed premises is frequently <u>unduly</u> disturbed by reason of any activity occurring at a licensed premise. These may be the result of:

- behaviour of persons on the licensed premises;
- noise emanating from the licensed premises; or
- disorderly conduct occurring frequently on or in the vicinity of the licensed premises.

Matters considered by the Director

Some matters the Director of Liquor Licensing 'may' consider when making a determination include:

- Any alteration, including structural changes made to the venue;
- Whether the person is one the complainant is identified above;
- any changes that have taken place over time to the activities that take place on the licensed premises; and
- the kind of business conducted under the licence and how that business is managed; and
- > any provision of the *Environmental Protection Act 1986*, or of any regulations made under that Act.

VJ15JUL007 Page **12** of **20**

Why is 'undue' noise important?

Noise is considered 'undue' or 'unreasonable' if it interferes directly or indirectly with the health, welfare, convenience, or comfort of any person in any premises. It is often caused by:

- Loud entertainment
- > Patrons at the venues, in al fresco areas, entering or leaving the premises
- > Operational noises from deliveries, generators and air conditioning units.

Case precedent on Section 117 noise complaints have established that the Director may have regard to compliance with noise limits; complainants must establishing a breach of section 117 of the LC Act.

In essence, complainants must make out that the noise is 'undue'.

'Undue' in this context takes on its ordinary meaning. For example the Cambridge Dictionary defines 'undue' as "to a level that is more than is necessary, acceptable, or reasonable."

This creates an objective test where it is necessary to prove that the noise exceeds that the level of what could reasonably be expected from the type of licensed venue.

In Re McHenry [1987] 4 SR (WA) 31, Sharkey J held that the word "undue" had to be determined and qualified according to the nature of the neighbourhood, so that what might constitute "undue" noise in one neighbourhood may not constitute undue noise in another. In this case, the neighbourhood is a mixed use, high-density tourist precinct, comprising of hotels, restaurants, tourist accommodation and residential accommodation. It is not outer suburbia.

In Hackney Tavern Nominees Pty Ltd –v- Mcleod (1983) 34 SASR 207, Wells J held that "Any resident who lives nearby a hotel must expect a certain amount of necessary or usual noise from people either arriving at, or, more likely, departing from the premises. From time to time one or more of the patrons might be expected to be noisier than the others – calling out, even yelling and screaming might occur. In extreme cases a fight or two. These are, in my experience, the types of disorder and inconvenience that might be realistically expected by nearby residents".

Complaint process

Complaints must be lodged in writing to the liquor licensing authority using the prescribed DRGL form (LLD/9 – Complaint About Noise, Disturbance Etc.)

While government agencies may lodge complaints of their own accord, members of the community must ensure that forms are signed by three unrelated adults including the complainant, unless the Director otherwise approves.

Before lodging the complaint with the Director, a copy of the complaint must be served on the licensee and sufficient time allowed for the licensee to rectify the cause of the complaint.

If the licensee does not take action to rectify the cause of the complaint within a reasonable time frame, the complaint may be pursued with the Director of Liquor Licensing.

Once this time has elapsed, DRGL will attempt to resolve the complaint through conciliation or negotiation with the licensee and complainant.

VJ15JUL007 Page **13** of **20**

If the complaint cannot be resolved through conciliation or negotiation, the Director may determine the matter.

Director's Determination

If a venue has been found following conciliation, negotiation or a determination to have caused undue disturbance of the amenity, quiet or good order of the neighbourhood the Director may take the following actions:

> vary the existing conditions of the licence;

Director, to resolve the subject matter of the complaint.

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

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

Appeal or Review by Liquor Commission of Western Australia (LCWA)

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.

The rules of the liquor commission regulate the practice and procedure of the commission and matters that are related and subject to the regulations, as to the costs and charges payable in relation to proceedings under this act. On 5 October 2007 the *Liquor Commission Rules 2007* were published in the Government Gazette and have effect from that date.

It is important to remember that a section 117 complaint may end up before the Liquor Commission. As Section 25(2c) of the Act provides that the Commission may have regard only to the material that was before the Director when making the decision.

VJ15JUL007 Page **14** of **20**

Local Government

Local government are delegated responsibility for monitoring compliance and powers to enforce noise under the EP Act.

Each Local Government Authority (LGA) may have its own policy for dealing with noise complaints and it is recommended your check their website for more information but the process is relatively similar across the state.

Noise Complaints Process

Noise complaints can be lodged with the local government authority verbally, in writing, on the phone or over the counter. Unlike a Section 117, one complaint is enough to trigger an investigation.

Environmental Health Officers (EHO) are responsible for investigating noise complaints and will liaise with the complainant / owner of the property and the noise emitting property / licensee or approved manager to discuss the complaint.

In most cases noise problems are resolved through consultation with the licensee provided the opportunity to initiate actions to respond to the noise issue.

If local government authorities continue to receive noise complaints, sound level measurements may be taken to assess the venue's compliance with the assigned levels and formal action against the venue initiated.

Where noise is found to be exceeding the prescribed levels, the venue must act to minimise noise. For instance, you may be required to carry out noise attenuation, provide acoustic screening for the venue; or simple things such as setting the music levels lower.

The venue will be required to engage an acoustic consultant at their own expense and consider implementing recommendations to reduce future noise complaints.

If the matter escalates further, local government may take further noise measurements, and impose requirements on the venue to reduce noise to compliant levels or to the satisfaction of the complainant.

Enforcement Action

If further readings are taken and noise levels exceed assigned levels local government may take further action and issue an Environmental Protection Notice (EPN).

An EPN is binding on each owner of occupier of the premise as it is registered with the WAPC under section 66. Failure to comply with an EPN is a criminal offence and can carry penalties of up to \$500,000.

Options to Appeal

An appeal of an Environmental Protection Notice must be submitted in writing to the Minister within 21 days of being given the notice – setting out the grounds for objection. The notice will remain in place pending the determination of the appeal.

VJ15JUL007 Page **15** of **20**

Management of Outdoor Areas

Approval must be obtained from Local government for al fresco / outdoor areas on public footpaths or on council land.

Applicable al fresco permits are issued by council for these areas which may include conditions on the performance of music.

Check the all fresco permit to condition to confirm if music can be played. If there is no approval but you would like to play acoustic or amplified music you will need to apply for another permit.

Your al fresco permit may also have implications on public liability. Any concerns regarding this scenario can be discussed with the Environmental Health Officer.

It is also important to note, that whatever you do in relation to addressing any noise issues should be documented in your Incident Report .

This may be crucial to your business in the long run, especially if you have problematic neighbours. Note down the date, time and nature of the discussion and any resolution that has been agreed to or the outcome of your meeting.

It may also be beneficial to review your Management Plan and ensure that your "complaints" procedure is updated and accurate to reflect how complaints are dealt with at your venue.

VJ15JUL007 Page **16** of **20**

WA Police

WA Police deal with such activities as noisy parties, using the 'unreasonable noise' provisions of the Act, instead of the Regulations. For information on the definition of unreasonable noise, refer to subsection 3(3) of the Act.

WA Police (WAPOL) can be contacted when patrons or residents want to lodge a complaint relating to noise.

Noise Complaints Process

Where (WAPOL) receive a noise complaint relating to a licensed premises there are a few options available to them.

- 1. WAPOL liaise with the **complainant** to assess the nature of the complaint is it vexatious or frivolous or is serious and warrants further investigation.
- 2. Dependant on the nature of the complaint, WAPOL may then liaise directly with the licensee to ascertain if there is a breach of the Noise Regulations or any other pertinent Act or Regulation, namely that of the LCA.
 - a. If the licensee undertakes to amend a business practice or procedure in order to minimise or eliminate the noise, then Police will record this undertaking in their database and follow up with a routine inspection to ensure compliance.
- 3. If however, the noise complaint is of a serious nature, or the noise issue is not dealt with satisfactorily and complaints are continuing, then WAPOL will refer the matter directly to DRGL for action.

However, just because the Police may not refer the complaint to DRGL does not stop them pursuing another line of action in accordance with section 95 of the LCA.

A section 95 is a disciplinary action against the licensee for various issues. The most common being that the business conducted under the licence is not properly conducted in accordance with the licence; and/or the licensed premises are not properly managed in accordance with the LCA.

VJ15JUL007 Page **17** of **20**

Overview of S117 Complaint Process

DEPT OF RACING, GAMING & LIQUOR

Lodge written complaint (must be signed by 3 unrelated adults)

Opportunity to Remedy (forward copy of complaint to licensee,

DRGL Investigation – Inspectol liaises directly with venue to investigate the complaint

engage both parties to negotiate an agreement to resolve the complaint

If frivolous or vexatious – the Director may dismiss the complaint



If no agreement is reached the complainant doesn't want to reach an agreement at this time, they must write to the Director outlining why their complaint should proceed

If the complainant cannot be settled by negotiation, relevant parties offered opportunity to make further

Director may determine to:

- Defer the complaint for a period of time
- Vary the existing conditions on the license
- Redefine the licensed premises
- Prohibit the licensee from providing entertainment or any other activity
- Suspend the license for a period of time to allow the licensee to make changes

WA POLICE

Report a disturbance

Police
Investigation –
will liaise directly
with complainant
and licensee.
Licensees are
required to
comply with
demands to

If Police believe there are grounds for a complaint, they will follow up the complaint with DRGL.

Even though
Police may not
follow up on a
noise complaint
to the extent of
DRGL, Police may
start a section 95
(LCA).

(LCA).
This enables
Police to seek the removal of the licensee, approved manager etc where they believe the venue is not being conducted in accordance with the LCA.

LOCAL COUNCIL

Lodge complaint with
Environmental Health
Officer
(Reauired only 1 complaint

Opportunity to Remedy (Forward copy of complaint to licensee)

Investigation by
Environmental Health
Officer
Jeasurement of noise levels

Licensee will advise EHO of what they will do to reduce noise. This should generally be provided in writing to the EHO.

EHO will acknowledge and follow-up progress with

If noise complaints persist,
LGA will undertake Sound
Measurements. This is a
formal process & an
acoustic consultant has to
be engaged. Remedies of
the consultant must also be
considered. The beneficial
remedy in reducing noise
must be adopted.

If noise complaints persist, the above step is carried out again and monitored by

If noise complaints cannot be addressed by LGA, input can be sought from DRGL into a s117 complaint.

VJ15JUL007 Page **18** of **20**

Useful Links

Department of Racing, Gaming and Liquor

- Complaints Lodged under Section 117 of the Liquor Control Act 1988
- Complaints related to licensed premises
- Form LLD/9 Complaint About Noise, Disturbance Etc
- Proceedings before the Director of Liquor Licensing

Liquor Commission

- Overview of Liquor Commission of WA Procedures
- Liquor Commission Rules 2007
- Fees & Charges for a Liquor Commission of WA review of Directors decision
- Appealing the decision of Commission constituted by one (1) member
- Enforcing the Commission's decision

Local Government

- Western Australian Local Government Association www.walga.asn.au
- City of Perth www.perth.wa.gov.au
- Town of Vincent www.vincent.wa.gov.au / City of Vincent Noise Policy
- City of Fremantle <u>www.fremantle.wa.gov.au</u>

Department of Culture & the Arts

Managing Live Music Noise Resources

WA Police

- WA Police Local Community Police
- WA Police Alcohol & Drugs

Key s117 References

- <u>Liquor Commission Determination of Appeal by Mr Dougal & Mrs Gail McLay v</u>
 <u>Garrett Hotels</u>
- PSB Operations Pty Ltd Licensee of the Old Swan Brewery Restaurant –v- Jansen & Anor [2006] WASCA 270
- Re McHenry [1987] 4 SR (WA) 31
- Hancock v Executive Director of Public Health [208] WASC 224
- Hackney Tavern Nominees Pty Ltd v Mcleod (1983) 34 SASR 207

VJ15JUL007 Page **19** of **20**