



REGULATORY FRAMEWORK

FOR LIVE MUSIC VENUES
IN SOUTH AUSTRALIA

Regulatory Framework for Live Music Venues in South Australia

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INTRODUCTION

This booklet takes a closer look at the legislative and regulatory framework of South Australia's live music industry. It provides a comprehensive breakdown, from setting up a venue to operational requirements, complaint handling, safety practices and expands upon subjects outlined in the *Best Practice Guide for Live Music Venues in South Australia*.

As South Australia's legislative and regulatory system is currently undergoing some significant revisions which will inform the live music industry, be sure to refer to the most recent revision of this booklet, made available through the Music SA website – www.music.sa.com.au

CHAPTER ONE

From The Top - On Establishing A New Live Music Venue

This is most relevant to business owners wanting to incorporate live music either as part of an existing business, or within a new business venture. However, even established venues will benefit from the resources outlined here.

In order to host live music as part of your business, you'll need at minimum the following:

- Development approval from your local council to host live music in your premises.
- If you are planning to trade without a liquor licence, then your development approval will largely inform how you can utilise your space. If you are planning to host underage events, refer to the section **Hosting Underage & Youth Events** for further guidance.
- If you are planning to sell liquor as part of your trading then you require a liquor licence granted by the Liquor and Gambling Commissioner.
- If you are planning to host live music on a licensed premises between midnight and 11am on any day, you will need to also apply for Entertainment Consent as part of your licence application.

For new businesses planning to sell liquor, a licence cannot be granted to you until you have the appropriate Council development approval for your business site. If you're taking over an existing business, an existing development approval will already exist. Be sure to check it has allowed for live music within your building. Otherwise you'll need to seek approval from council to be able to have live music. If you have a restaurant business and you want to have entertainment that is secondary to the restaurant use, it is best to check with the local council to see if you need approval to do this.

THE DEVELOPMENT APPROVAL PROCESS

When assessing a new development, or revising an existing approval, council will take into account the following:

- The nature of the proposed business (i.e. will you trade as a restaurant, pub, club etc., including number of proposed patrons)
- The zone and/or policy area in which the site is located, and what that envisages for the future of the area
- The proposed hours of trading
- The likely noise and nuisance impacts on surrounding residents and business
- Where refuse (garbage etc.) will be stored and collected

For new applicants, it is important that from the beginning of the development application you seek input from council of your intention to hold live music. In South Australia, each council will refer to the *Development Act 1993* and *Environment Protection Act 1993*, while also working from the Development Plan. For example, the Adelaide City Council has specific provisions in its Development Plan that seek to ensure noise levels do not

impact on existing residential properties, and that new housing is designed to take account of existing music venues etc. Metropolitan councils though, might refer to a set of requirements under the 'Minister's Specification SA 78B', because the policy contained within their respective Development Plan may differ. Whichever assessment tool is used, the guidelines seek to reduce noise impacts so noise levels generated may ultimately need to be monitored or noise attenuation measures may need to be put in place.

It's best practice to contact your local council for a copy of the relevant Development Plan, or you can preview the plan here: <http://www.sa.gov.au/topics/housing-property-and-land/local-government/development-plans/online-development-plans>

By reading these documents, you can better understand how they will consider your business as part of the overall plan they have for the future of the area you'll be trading within.

A significant part of any development application that will consider live music as part of trading is noise attenuation – ensuring that noise from your business won't unduly disturb your residential and business neighbours. This is assessed on a case-by-case basis and the process will differ depending upon your location and the council your business is in. The SA Environment Protection Authority (EPA) advises that it is best practice to engage an acoustic engineer to certify that your indoor venue is designed to meet the noise criterion in the EPA's guideline "*Music noise from indoor venues and the South Australian Planning System - Updated July 2015*", and it is very likely that council will also request you do so. This will be at your cost, but will be crucial to outlining the most effective treatment that can be undertaken on your building to minimise external noise emissions.

The National Construction Code (NCC) should be consulted to ensure that any sound insulation upgrades recommended by an acoustic consultant comply with its requirements. It should be noted that although the upgrade of a building element of a building can be acoustically beneficial, it might not comply with the requirements of the BCA, for example in relation to smoke hazard management. This is especially important when you consider that some sound insulation materials are highly flammable, so therefore not appropriate.

It is also important to note that as part of your development application, the council may undertake a public notification and consultation process that will allow nearby property owners the opportunity to consider your proposed development and consider the likely impact it will have on them. Their responses and your responses will feedback into the council process. It is best practice to prepare for this stage of your application by introducing yourself to surrounding businesses and neighbours as early as you can. Where possible, make personal contact and share with your neighbours your intention for the site. At the very least, pass on your contact details via mail so that they can contact you if necessary to speak about your intentions. Live music provides important social and cultural opportunities within a community and it's likely that those around you will become future customers, so being friendly and approachable during the planning process can benefit your business as you prepare to launch.

The process of development approval can take time, but is also a great opportunity to establish a strong relationship with the community and local authorities.

ENTERTAINMENT CONSENT IN SOUTH AUSTRALIA

Recent changes to Entertainment Consent require that any licensed premises planning to provide entertainment between midnight and 11am on any day must seek approval to do so from Liquor and Gambling Commissioner. See the chapter **Applying For Liquor Licence** for more information. You do not require entertainment consent outside of these times.



RESOURCES:

The **Adelaide City Council (ACC)** provides a step-by-step breakdown of their **development approval process** here:

<http://www.adelaidecitycouncil.com/planning-development/building-renovating/development-approvals/>

ACC Development Approval FAQ Factsheet:

<http://www.adelaidecitycouncil.com/assets/documents/ACC-DIGS-Faq-Sheet.pdf>

EPA Indoor Music Venue Guideline:

<http://www.epa.sa.gov.au/search/documents?q=music+venue+noise&published=>

CHAPTER TWO

Applying for a Liquor Licence

Responsible consumption of alcohol brings many benefits – vibrant, livable cities and regions, prosperous businesses and good times with friends. But while enjoying alcohol is an intrinsic part of many cultures, drinking harmfully does not have to be.

It is important to be aware of the effects of alcohol and how to minimise the risks associated with drinking. If your business holds a liquor licence, it is important to comply with the relevant legislation and licence conditions to ensure that your venue is a safe and pleasant destination for patrons to enjoy a night out.

Anyone who intends to sell or supply liquor as part of their business must apply for a liquor licence. There are 13 different licence categories depending on your business operations. Consumer and Business Services (CBS) list the following as factors that may influence which licence category your business can trade under:

- The licence time period
- Where the alcohol will be consumed
- Council requirements as to land use
- Your business intentions

If you are taking over an existing business that trades in liquor sales, a licence will already be in place. Firstly, you'll be assessed personally to determine if you're a suitable person to hold a liquor licence. Then you'll need to check whether there have been any existing conditions placed on the licence in the past. If there are, and these conditions conflict with the type of live music you wish to host or the operations of your business, you will need to apply to Liquor and Gambling Commissioner for variation to conditions.

You will also need to check the existing development approval for your building as this may contain provisions preventing live music or other conditions that would make live music unviable.

SOUTH AUSTRALIA'S LIQUOR LICENSING FRAMEWORK

The *Liquor Licensing Act 1997* (LLA) sets out the legal requirements which you need to abide by if you wish to supply liquor, including the requirements to obtain a licence. CBS issues licences and regulates licensed premises.

The majority of live music businesses will trade under either a Hotel or Restaurant, Entertainment Venue or Special Circumstances Licence.

First and foremost, if you are to hold a liquor licence you must be able to prove that you are a 'fit and proper person'. This applies to a transfer of an

existing licence in established premises as well as for new applications. This involves completing a Personal Information Declaration, which must be forwarded to SAPOL before you can proceed in your application. This is necessary to prevent the operation of businesses by those affiliated with criminal activities.

All licences contain conditions which you must comply with, including trading hours, maximum patron numbers and amenity provisions. However, as explained in the **On Establishing A New Live Music Venue**, you must have development approval from your local council to host live music irrespective of your licence conditions.

Live Entertainment, as defined by the LLA, refers to:

- a) a dance or other similar event at which a person is employed or engaged to play music (live or pre-recorded); or
- b) a performance at which the performers, or at least some of them, are present in person; or
- c) a performance of a kind declared by regulation to be live entertainment.

In addition to adhering to the LLA, you must also comply to the requirements of the General Code of Practice. If you trade after 3am, you will also be required to comply with the Late Night Trading Code of Practice. Finally, your local council may have their own Liquor Licence operating guidelines that you'll need to adhere to as well.

MINIMUM REQUIREMENTS

The minimum requirements under the LLA include:

- Displaying a copy of your current liquor licence, with all conditions and endorsements visible at the front of your premises.
- Ensuring that all crowd controllers employed at the venue (including contractors) are approved under the *Security and Investigation Industry Act 1995* and the *Liquor Licensing Act 1997*
- All staff involved in the service or supply of alcohol have completed Responsible Service of Alcohol (RSA) training.
- Ensuring that either the licensee or a Responsible Person is present during trading at all times, with their identification badge visible on their persons.
- Ensuring that the sale and supply of alcohol does not encourage intoxication, violent or anti-social behavior and does not detract from the amenity of community life.
- That all relevant annual licence fee payments are up to date
- That licensing policy relating to minors on premises is clearly signed, communicated and enforced by your venue.

In the case of an Entertainment Venue licence with an extended trading authorisation, it is especially important that a sign must be displayed at all times advising people of the times when minors are prohibited from being on the premises. More details about this can be found in **Hosting Underage & Youth Events**.

ENTERTAINMENT CONSENT

If you plan to host entertainment between midnight and 11am on any day, you will need to apply for Entertainment Consent as part of your liquor licence. When you apply for Consent, similar to your development application, it is critical that you demonstrate the steps you have taken to ensure that the entertainment you're hosting is unlikely to cause undue issues to your neighbours. At this point you can refer to best practice from your development approval to demonstrate that you have undertaken an acoustic report and treated your building as per its recommendations. If this has not been done, at minimum you can expect to be asked to implement appropriate sound harm minimisation strategies, but it may result in expensive retrofitting.

To download the application form for Entertainment Consent, visit - http://www.cbs.sa.gov.au/assets/files/AF_Entertainment_consent.pdf

ANNUAL LICENCE FEES

Licensees are required to pay an annual fee to CBS by 30 June each year. The schedule for fees is available in the Resources section of this chapter however this is subject to change. Note that fees increase on July 1 each year.

LIQUOR LICENSING INSPECTORS

Inspectors are authorised by the Liquor and Gambling Commissioner to ensure that your business is adhering with the legislative requirements. Inspectors include people authorised by the Commissioner and by South Australia Police. They have the authority to enter your premises at any reasonable time and ask to be shown the current floor plan as well as any relevant records, including books of account pertaining to the sale, purchase or supply of alcohol. While this is not necessarily a common happenstance, it is best practice that both yourself and any Responsible Person on duty be prepared.

Inspectors may also ask to look at the Risk Assessment and Management Plan for your business. The General Code of Practice outlines the requirement for a Management Plan as part of your business operations. A template for the plan, as recommended by CBS, is highlighted in the Resources of this chapter.

GENERAL CODE OF PRACTICE

The General Code addresses RSA training, practices relating to minors, practices relating to drink spiking, dealing with intoxicated, disorderly, abusive or violent behavior and practices relating to disturbances (noise). To ensure you are adhering to the General Code you must ensure all staff are trained appropriately on induction, that training is subsequently revisited at least once during two-year period of employment and that your business has an up-to-date Risk Assessment and Management Plan. A copy of the General Code can be found in the Resources section of this chapter.

LATE NIGHT TRADING CODE OF PRACTICE

If you trade between 3am and 7am, your business will have to adhere to these Codes of Practice. The mandatory requirements include:

- Ensuring your business has information about available public transport and taxi ranks
- Taking practical steps to ensure that queues to enter your premises are orderly and won't obstruct footpaths
- That at 2am, trading of alcohol in public outdoor areas is ceased (this doesn't mean contained outdoor areas like beer gardens, rather approved seating on footpaths and the such)
- That no customer can enter your premises between the hours of 3am and 7am
- Should you trade beyond 3am, all non-tempered or non-polycarbonate glassware must be removed from areas accessible by your patrons and all drinks must be served in tempered or polycarbonate glassware.
- Ensure that you are not promoting rapid consumption of alcohol and that no beverage sold contains more than 45ml of spirits.
- If you trade beyond 12am, you are not permitted to serve free drinks after this time.

If your licensed capacity is more than 200 patrons, the following additional conditions will also apply:

- Between 12.01am and 7am at least one RP must perform the duties of a Drink Marshall, as outlined by the Code
- Between 12.01am and 7am at least one member of staff on duty has undertaken nationally accredited first aid training, approved under the Liquor Licensing Act

If you operate within the prescribed Adelaide precinct, you will also be required to operate approved metal detectors and CCTV at all times.

ADVERTISING ALCOHOL WITHIN YOUR BUSINESS

South Australia has strict regulations with relation to the promotion of alcohol sales within any business. At no time can you promote the sale of alcohol in a way that would target minors; promote the rapid or excessive consumption of alcohol or run any gender-based promotions involving free or discounted liquor on premises, including free or discounted entry promotions.

LIQUOR LICENSING (GENERAL) REGULATIONS 2012

The Regulations specifically address annual fees, licence applications and objections, lodgers to be maintained by your business, policy associated with minors and procedures related to barred persons. It also prescribes certain conditions of small venue licence holders. Adhering to the General Regulations is more closely addressed in chapters 9 with relation to Minors and 7 addressing unruly patrons.

To ensure that you are trading within the letter or the law, CBS provides a Self Assessment Compliance Audit Liquor Checklist, available in the Resources of this chapter.

Required signage is available from industry representatives, or can be downloaded from the link provided in Resources.

THE EMPLOYMENT OF MINORS

This is a tricky area, so tread carefully. If a minor is employed to sell, supply or serve liquor on licensed premises, the licensee is guilty of an offence. However, the following exceptions apply:

- if the minor is of or above the age of 16 years, a child of the licensee or a responsible person for the licensed premises and resident on the premises
- if the minor is of or above the age of 16 years and a child of the licensee or a responsible person for the licensed premises, and the licensing authority, on application, approves the employment of the minor for that purpose.

ADELAIDE CITY COUNCIL LIQUOR LICENSING POLICY & GUIDELINES 2013

The Adelaide City Council takes a keen interest in licensed premises, their operation and how they are incorporated within the overall City.

The Liquor Licensing Policy is centred around desired operating hours for licensed premises within the various City precincts.

It also has regard to:

- Noise emissions – there is a specific condition which has been imposed upon the vast majority of current licences, however following a review of licence application processes and enforcement responsibilities by Consumer & Business Services and Adelaide City Council this condition is no longer sought to be imposed upon licences, with the relevant noise emission standard being determined as part of the Development Approval.
- Entertainment – Live entertainment is encouraged however a cessation of such entertainment one hour prior to the ceasing of service of alcohol is encouraged to allow for a “wind down” of activity and the gradual dispersal of patrons;
- Exterior loudspeakers – these are generally discouraged but where their use would add to the ambience or vibrancy of a precinct then they could be supported;
- Crowd management - Late night premises (in particular those providing entertainment) should provide approved crowd controllers at a minimum rate of one per 100 patrons (this ratio is negotiable depending upon the individual licensed premises situation and mode of operation) to control the inside of the premises, outdoor dining areas and while patrons are approaching or leaving to ensure that the amenity of the precinct not affected negatively.

- Queuing of patrons - Crowd controllers for late night premises should seek to ensure queuing is orderly, parallel to the building and that a minimum of 1.8 metres width of footpath for pedestrian movement maintained.

It should be noted that following the introduction of the *Liquor Licensing (Entertainment on Licensed Premises) Amendment Act 2015*, where a liquor licence is being scrutinised by Consumer & Business Services, conditions relating to the provision of entertainment are being removed. However this only applies to conditions that are not conditions of the relevant Development Approval. In any event such conditions will continue to apply where Entertainment Consent applies between the hours of midnight and 11:00 am.

ADELAIDE CITY COUNCIL LIQUOR LICENCE POLICY

The Adelaide City Council takes a keen interest in licensed premises and how they are incorporated with the future of the City. There is a series of non-negotiable conditions outlined by the Council which apply to all licence holders trading in the CBD and North Adelaide, as well as negotiable conditions which will be applied at the discretion of Council as well. To summarise these conditions, all licensed premises:

- Must not place loudspeakers on or in the fascia, balcony or in and adjacent outdoor area or footpath; loudspeakers should be directed away from the entrance and exits of the premises in order to minimise their noise impact
- Noise attenuation measures should strictly adhere to levels outlined by the EPA
- All external doors and windows are to be closed when the 'in-house' sound system is in use
- Late night premises (in particular those providing entertainment) should provide approved crowd controllers at a minimum rate of one per 100 patrons to control the inside of the premises, outdoor dining areas and while patrons are approaching or leaving the premises to ensure that the amenity and the locality of the area is not affected in a negative way
- Crowd controllers for late night premises should ensure queuing is orderly, parallel to the building and that a minimum of 1.8 metres of footpath clearance is achieved
- Must have clearly visible signage at all exits emphasising patrons should leave quietly and quickly so as not to disturb nearby residents.

If you are a restaurant, you must also be very careful about hosting entertainment. The Adelaide City Council outline non-negotiable conditions to include:

- Any entertainment is to be ancillary to dining at all times
- No advertisement or promotion of entertainment shall be undertaken by, or on behalf of the licensee shall include the words "DJ, disc jockey, discotheque, disco, nightclub, dance club, rock band venue, karaoke, recovery, rave, bar, tavern, inn" or "pub".

Negotiable conditions outlined by Adelaide City Council include:

- Advertising of the business and entertainment taking place shall not be advertised or promoted on Council property or private property without appropriate authorisation

- Public areas must be kept tidy and removal of rubbish carried out at regular intervals by the operator
- Movement of garbage (such as emptying bottles into outdoor bins) and its collection should not occur after 10pm or before 7am Monday to Saturday or before 9am on Sunday and Public Holidays.

Restaurants should also be aware of the following negotiable conditions:

- Entertainment shall be limited to solo artists, two piece jazz bands or similar, and not include any disc jockey or karaoke type activities so that dining remains the primary purpose of trading
- Entertainment provided shall not be advertised or promoted in any fashion that promotes the premises as an entertainment venue; incur a door charge or result in queuing at the front of the premises by persons waiting to gain entry.

There are also precinct specific conditions which may apply to your venue depending upon where your premises are based. For full details, refer to the Adelaide City Council Liquor Licence Policy, available in the Resources of this section.

SETTING CAPACITIES IN LICENSED VENUES

Capacities may be set in two ways, depending upon whether an independent capacity assessment has been supplied during the development approval process or not. Either local council or a registered private certifier can set the capacity, or the licensing authority (CBS) can impose conditions on a licence to protect the health, safety and welfare of customers and staff.

With respect to outdoor areas for licensed premises, according to the CBS website, council, registered architects and private certifiers may not set capacity for outdoor areas. CBS will set a capacity for an outdoor area as follows:

- Beer Gardens – One person per one square metre;
- Footpaths – According to the number of tables and chairs authorised by the Outdoor Dining permit issued by Council.

These may be altered depending on noise from patrons.

It should be noted that if a larger venues individually licensed areas are given a capacity that, when combined, exceeds the overall capacity imposed on the venue then the overall capacity prevails in a legal sense.

ON APPLYING FOR LIMITED LICENCES

If you are organising or hosting a party, function or event where alcohol will be sold, you may need to apply for a limited licence.

A limited licence is also required if the event is at a private venue and/or where guests pay a cover charge and alcohol is provided.

All applications for a limited licence must be lodged with CBS at least 14 days for small events and 60 days for large events before the event start date. The

application must be accompanied by the application fee and required documents (as necessary).

NOISE ATTENUATION

It should go without saying, the most important requirement of a live music venues business operations under the LLA is to ensure that you have taken steps to prevent undue offence, annoyance, disturbance, noise or inconvenience to people who reside, work or worship in the vicinity of your business. This involves the responsible management of not only your live entertainment but also your patrons as they come and go during trading hours. The **Noise Management** section of this booklet addresses this in detail.

BEST PRACTICE

Best Practice Compliance is clearly outlined within this **CBS Self-Assessment Compliance Audit Liquor Checklist**:

http://www.cbs.sa.gov.au/assets/files/self_assessment_checklist.pdf

The **Liquor Licensing Accord** also defines best practice as agreed upon by CBS, SAPOL and Adelaide City Council:

<http://www.cbs.sa.gov.au/assets/files/ALA.pdf>



RESOURCES

CBS provide a step-by-step breakdown of the **licence application process** here:

<http://www.cbs.sa.gov.au/wcm/licensing-and-registration/liquor/new-applicants/>

For information on setting **Licensed Capacity**:

<http://www.cbs.sa.gov.au/wcm/licensing-and-registration/liquor/capacities/>

A breakdown of the **Limited Licence** process and an online application form is available here:

<http://www.cbs.sa.gov.au/wcm/licensing-and-registration/liquor/limited-licence/>

A **Limited Licence** fact sheet is also available from here:

http://www.cbs.sa.gov.au/assets/files/licence_holders.pdf

For a copy of the **ACC Liquor Licensing Policy**:

http://www.adelaidecitycouncil.com/assets/acc/Council/docs/liq_uor_licensing_policy.pdf

And for a copy of the **ACC Liquor Licensing Guidelines**:

<http://www.adelaidecitycouncil.com/assets/Policies-Papers/docs/OPERATING-GUIDELINES-liquor-licensing.pdf>

CBS **Licensing & Registration** hub:
<http://www.cbs.sa.gov.au/wcm/licensing-and-registration/liquor/>

The schedule for **Licensing fees** is available here:
<http://www.cbs.sa.gov.au/assets/files/Annual%20Liquor%20fees.pdf>

CBS recommended **Management Plan Template**:
<http://www.cbs.sa.gov.au/wcm/licensing-and-registration/liquor/risk-assessment-plan/>

Required **venue signage**:
<http://www.cbs.sa.gov.au/wcm/licensing-and-registration/liquor/notices-to-display/>

Liquor Licensing General Code Of Practice:
http://www.cbs.sa.gov.au/assets/files/general_code_of_practice_feb2014.pdf

Additional information is available at:

Australian Hotels Association www.ahasa.com.au

CHAPTER THREE

Noise Management

When it comes to hosting live music in South Australia, noise management is one of the most critical aspects of trading you need to get right. Managing sound effectively will not only enhance the live music experience for patrons and help you attract high quality performers; it will reduce the potential for conflict with neighbouring residents and businesses. This section provides background information on the regulation of noise in South Australia, as well as what you can do to achieve best practice in your business. It is important to note that every venue has a unique set of circumstances in relation to sound management, so it is wise to seek advice from your local authorities and noise experts to ensure your venue is compliant.

NAVIGATING SA NOISE MANAGEMENT REGULATIONS

The *Environment Protection Act 1993* and SA Environment Protection Authority (EPA) guidelines¹ inform local government planning regulations, the *Liquor Licensing Act 1997* and all relevant noise policy in SA. However, nowhere in the Act or Policy are music noise emissions specifically referenced. The EPA does, however, provide guidelines to planning authorities addressing music noise from indoor venues, which can be found in the resources at the end of this chapter.

In technical terms the music noise assessment criteria determined by the EPA that informs all relevant planning documents, as well as licence conditions, are as follows:

Music venues should be designed so that music noise (L10,15) from an entertainment venue when assessed externally at the nearest existing noise sensitive location should be less than 8 dB above the level of background noise (L90,15) in any octave band of the sound spectrum.

This design criterion is for use by an acoustic engineer, and is not intended to be used as a condition of development approval or for compliance measurements as it is difficult to measure and enforce. In practice, noise emissions from live music are only acknowledged as an issue when a complaint is made about them. This is discussed further in the **Handling Complaints** section of this booklet.

It should be noted also that the Adelaide City Council prescribe very specific noise attenuation guidelines as part of the Development Plan and their *Liquor*

¹ *Music noise from indoor venues and the South Australian Planning System - Updated July 2015.* <http://www.epa.sa.gov.au/search/documents?q=music+venue+noise&published>

Licensing Policy, which must be met. See the resources section for a link to this policy.

WHERE NOISE COMPLAINTS ARE DIRECTED

The source of the noise causing an issue will dictate which authority it will be directed to. The following table summarises the relevant authorities involved in handling the different noise complaints that a live music business may encounter:

	SA EPA	SA Police	Council	Liquor & Gambling Commissioner
Premises licensed under the Liquor Licensing Act 1997 <i>(music & patron noise)</i>		X		X
General Rubbish collection services / other public services	X		X	
Noise emitted from unlicensed premises	X		X	
Domestic machine noise <i>(eg. Power tools, air conditioning units, extraction fans)</i>	X		X	
Domestic music or party noise		X		

It is important to note that both the Commissioner of Police and local council, as well as individuals, may lodge a noise complaint against a licensed venue to the Liquor and Gambling Commissioner under section 106 of the LLA. If the complaint is to be made by an individual it must be authorised by at least 10 people who reside, work or worship within the vicinity of the licensed premises. Alternatively, the Liquor and Gambling Commissioner can also approve a complaint if they are satisfied that the nature or gravity of the complaint suggests serious non-compliance issues.

It is the responsibility of the Liquor and Gambling Commissioner to serve a licensee with notice of the complaint no later than 7 days after it was lodged with him. A conciliation of a complaint by CBS cannot occur until 14 days have elapsed from the date of service of the complaint by the Commissioner on the licensee.

From here, CBS will arrange a conciliation hearing where conditions upon your trading may change through an agreement between the parties involved in the conciliation. In practice, you don't want any complaint to reach this stage or worse, be referred to the courts. This is why best practice with regards to noise management looks closely at planning in advance and implementing measures so these sorts of instances can be avoided altogether.

BEST PRACTICE

There are a number of steps that you can take to manage sound effectively in your business, which are outlined below.

Plan Effectively

- Consider your proximity to neighbours and how your live music schedule could affect them. While your business generally has the same rights as other community members, treatment measures will often fall upon the source of the noise, which is your business.
- Engage an acoustic consultant to establish sound limits for your venue and to ensure that you comply with noise regulations. Acoustic consultants can also provide advice on treating your building to reduce sound that emanates from it or the use of specific equipment within.
- Assess your buildings acoustic insulation to determine if any renovations will be required to comply with noise regulations. See the resources section of this chapter for further information.
- Remember to check the building's electrical supply, plumbing, fire and other utilities to ensure they comply with relevant Australian Standards. It is worth ensuring compliance on these levels before installing acoustic insulation to avoid expensive retrofitting.

Upgrade Your Building As Necessary

- Install high-density acoustic insulation in the walls, ceiling and floor surrounding live music areas, particularly external walls that are close to neighbours. Ideally, you should be able to walk the perimeter of your venue at any time and hear minimal sound coming from the premises.

- Install sound absorbing materials such as heavy drapes and carpet in live music areas to reduce reverberation and minimise the build-up of sound.
- Install acoustic or 'air-lock' doors at the entry points to your live music area, venue or other outdoor areas to limit the break-out of sound. Similarly, consider double-glazing on windows close to your live music area.
- Seal any gaps where sound might be escaping, including around doors and windows, or utility inlet and outlet vents and particularly through air conditioning ducts.
- The Building Code Of Australia (BCA) should be consulted to ensure that any sound insulation upgrades comply with the requirements of the BCA. It should be noted that although the upgrade of part of a building can be acoustically beneficial, it may not comply with the requirements of the BCA, including flammability, smoke, and spread of flame properties. It's best to consult with a building surveyor.

Use Appropriate Equipment

- Use a PA system that is appropriate for the size of the venue and relevant approved noise levels. Devices such as limiters warning lights, compressors and cut-out switches can also help you maintain PA volume at a suitable level.
- Use equalisation devices to reduce the low (bass) frequency sound generated by drums and bass instruments, which are difficult to insulate against and often accompanied by vibration.
- Enclose or replace noisy utilities such as air conditioning units and compressors that may disturb neighbours.

Develop A Sound Management Strategy

- Use a sound level meter to take regular measurements from reference points both inside and outside the venue during live shows and adjust sound levels accordingly. Keeping a record of these measurements in a 'noise diary' also demonstrates your commitment to noise compliance, which will be useful if dealing with any complaints or if you plan to upgrade the entertainment area in your venue.
- Educate staff on sound management principles, such as monitoring on-stage sound levels, managing patron noise in outdoor areas and disposing of recycling quietly.
- Ensure your booking agent only books acts that are appropriate for your venue. For example, hosting a metal band in a venue set up for folk music will invariably result in noise complaints.
- Inform musicians at the booking stage (possibly as part of their performance contract) about sound management practices at your venue, including relevant noise limits and any PA limiting devices, such as compressors and cut-out switches.
- Manage outdoor areas to prevent large groups of patrons gathering and making noise that could annoy neighbouring residents. Measures could include not permitting alcohol in outdoor areas after a given time, mounting signs that encourage patrons to be quiet in outdoor areas, or installing Perspex reflectors to reflect crowd noise away from neighbours.
- Be proactive in building a positive relationship with local authorities

and residents to address noise-related issues before they escalate (see chapter 4 of these guidelines for further information).



RESOURCES

A copy of the ***EPA Guidelines addressing live music hosted indoors*** can be found here:

<http://www.epa.sa.gov.au/search/documents?q=music+venue+noise&published>

A copy of the ***ACC Liquor Licensing Policy*** is available in the Resources of the **Applying for a Liquor Licence** section of this booklet.

Environment Protection Act, 1993:

<http://www.legislation.sa.gov.au/LZ/C/A/ENVIRONMENT%20PROTECTION%20ACT%201993/CURRENT/1993.76.UN.PDF>

Additional information can be obtained from:

Australian Hotels Association www.ahasa.com.au

Australian Association of Acoustic Consultants:

www.aaac.org.au

Australian Acoustical Society – www.acoustics.asn.au

Consumer and Business Services – www.cbs.sa.gov.au

South Australian EPA – www.epa.sa.gov.au/noise

South Australian Police – www.sapolice.sa.gov.au

CHAPTER FOUR

Building Relationships With Local Authorities & Residents

Effective communication is the cornerstone of best practice when it comes to establishing a positive relationship with local authorities and within the community your business trades. It's important that neighbours and authorities can understand your business and you can address potential issues quickly and effectively.

BEST PRACTICE DURING DEVELOPMENT & LICENSING APPROVAL PROCESSES

As detailed in the Development Approval section, as part of a development application and as part of your licence application, public notification and consultation processes are standard. This is for locals to consider the likely impact your trading will have on them and this will feed back into each application.

Pre-empting these stages, this is a good opportunity for your business to demonstrate your willingness and enthusiasm to become a positive contributor to the local community to both local authorities and neighbours. Live music provides important social and cultural opportunities and it's likely that those around you will become future customers.

It's best practice to be prepared to meet any potential concerns that surround amenity and the good nature of your business. If you can demonstrate to Council, SAPOL and CBS through these mandatory consultations that you are aware of, and prepared to follow best practice with respect to noise attenuation and responsible trading of liquor, then you can begin to establish positive relationships and clear communication channels.

This is also an opportunity for you to introduce yourself to neighbours, to share your vision for how your business will sit within their community and show that you intend to operate as a good neighbour. Where possible, make personal contact with those around you and open communication channels whereby they can share any concerns they may have. Demonstrating that you have heard their concerns and will do your best to address them can help ensure that if issues do arise, they know they can come to you first to address them. This can help you avoid becoming involved in more formal complaint handling conciliation which is managed by authorities.

Best Operating Practices Communication

- Consider establishing a communication plan for your venue that includes regular contact with local authorities such as police and council, as well as community and residents' groups in your area. Such a plan might include regular meetings or notifying neighbours and authorities when you plan to host big events or changes to your venue's trading schedule.
- Make sure that after-hours contact numbers for you and your

managers are available to staff, patrons, residents and authorities to ensure that any issues can be dealt with as soon as they arise.

Police

- When planning changes to the operation of your business, such as extended trading hours or introducing live music, you should contact your local police station and seek advice from your local liquor licensing inspector for your area.
- Being proactive in communicating with police will demonstrate that you have good intentions and will give you the best chance of avoiding any trouble.
- You should also investigate the history of your venue and any previous licences to ascertain what the existing reputation of the venue may be. If the venue has a history of noise-related issues your local liquor inspector will know about it.

Neighbours

- Consider hosting a monthly meeting or social night for local residents on a quiet night in your venue. Neighbours who are familiar and comfortable with your venue will be more accommodating towards your entertainment schedule and more likely to talk positively about your venue to other members of the community, friends and family.
- Consider giving incentives to make your venue a suitable community meeting place for interest groups or business. Opening your doors and welcoming neighbours will not only help increase patronage, it will help them see that you are a part of the community as well.



RESOURCES

As previously referenced, the **Adelaide Liquor Licensing Accord** is a forum chaired by the Liquor and Gambling Commissioner and includes ACC, SAPOL, AHA and City and North Adelaide licensees. It provides an opportunity for licensees to air issues and is a conduit for a two-way flow of information between licensees and the relevant authorities. It is voluntary for licensees to participate.

It was collaboratively developed by licensees, Adelaide City Council, regulatory bodies (including CBS & SAPOL) and trader and precinct groups and associations.

It provides a strong framework for the division of responsibilities between local organisations in order to share information, intelligence and ideas to reduce crime and disorderly conduct around licensed venues. It should be used as a template for developing a similar accord in your local area, and is available in the Resources of the **Applying for a Liquor Licence** section of this booklet.

Local council should be able to provide a list of resident or community organisations to contact relevant to your trading location.

CHAPTER FIVE

Handling Noise Complaints

So far this booklet has provided information on sound management and building relationships with authorities and residents to avoid noise-related issues when hosting live music at your business. However, there is always a risk that neighbours will complain about noise. This chapter provides tips on how to manage complaints effectively in order to save your business time and money.

In South Australia, complaints made against licensed premises are handled by CBS, ACC and SAPOL. Responsibility for the handing of such complaints is dependent upon the nature of the complaint and other facts such as the times of the noise issue. In any event, all three agencies liaise closely. CBS recommends that if neighbours believe they have been adversely affected by an activity such as noise, patron behaviour, barring, refusal of service, management practices, liquor promotions or behaviour of crowd controllers, to contact the venue as a first port of call before formalising their complaint. This is an opportunity for you as the licensee to take steps to address the issue before it escalates.

THE COMPLAINTS PROCESS IN SA

As was noted in **Noise Management**, the Commissioner of Police and local council, as well as individuals, may lodge a noise complaint against a licensed premises to the Liquor and Gambling Commissioner under section 106 of the *LLA*. A complaint made by an individual is not valid unless it has been authorised by at least 10 people who reside, work or worship within the vicinity of your business. However, the Commissioner can also accept a complaint if he is satisfied that the nature or gravity of it suggests serious non-compliance issues.

While all complaints are ultimately referred to the Commissioner, it is important to appreciate that a resident who believes your business is the cause of undue disturbance may complain to another, or multiple other organisations who may then forward the complaint. There is no legal obligation for a neighbour to engage with your business directly to resolve issues, which is why best practice always emphasises attempting to mitigate issues before they might arise. If you have been proactive and taken the time to establish a relationship with your neighbours, it is likely they will use the communication channels you have opened for them to speak with you directly about any problems that may arise.

Best Practice for Complaint Handling - Have A Clear Plan

Developing a plan for handling complaints at your venue will assist staff to diffuse noise related issues if they arise. Such a plan should include:

- After-hours contact numbers for you and your managers, available to staff, patrons, residents, the local council and other authorities;
- A nominated person (e.g. a duty manager or supervisor) whose responsibility includes handling complaints from the general public at

- every shift;
- Training for all staff on what to say when receiving a complaint; and
- A method of recording details (e.g. a complaints book), including:
 - day, date, and time that the complaint was made;
 - Who is making the complaint and their contact details;
 - Specifics of the complaint, including when, where and how often; and
 - A timeframe within which you will respond.

Receiving Verbal Complaints

No matter what impression you or your staff may have formed about the person making the complaint, listen to them in a respectful way and avoid making any assumptions about what they will say. Remember that they may have been experiencing the effects of music or excessive noise for some time and may be in a highly stressed state. Try to see the situation from their point of view – how would you feel? Your empathy and consideration of their situation could resolve the issue immediately.

All staff should be trained in the basics of receiving a complaint, including:

- Remaining calm and finding a good listening environment
- Clearly identifying the problem
- Clearly identifying what the person wants you to do
- Focusing on the issue, rather than the person
- Avoiding assumptions – try to see things from the other person’s point of view
- Considering whether you need to apologise or acknowledge previous complaints.

If the complaint is about something that cannot be rectified immediately:

- Make sure that the person is aware that you have recorded their concerns and contact details
- Assure the person that you will notify management, who will respond (preferably with a timeframe – e.g. within 24 hours)
- Provide them with the details of someone to contact if the matter reoccurs (e.g. a duty manager)
- Thank them for bringing the issue to the venue’s attention.

Written Complaints

A person who puts their concerns in writing is often highly motivated to take action, and you should treat a written complaint as preliminary action to a more formal complaint. The recommended process for responding to a written complaint is similar to the process for a verbal complaint, with some additional steps:

- Acknowledge the letter of complaint promptly. This can be done with a phone call, an email or a letter. You don’t need to commit to taking any action, you just need to confirm the complaint has been received and noted.
- Try to make contact with the author (if they have provided contacted details). A conversation may allow you to obtain more details of the complaint, opening more options for resolution.
- Prepare a written response – either accept the problem and outline the action you will take, or politely explain why you cannot take the action requested.

Online Forum, Review Websites & Social Media

It's very easy for people to jump online in the heat of a situation and express frustration. Often the nature of the complaint may be an immediate reaction and again, it's important to not draw assumptions on the person who has chosen to voice their opinion online.

Always acknowledge the complaint via the website it was made on and thank the person for bringing it to your attention. Public forums are not the place to debate an issue, nor are they the right place to explain your position. Best practice would be to make your contact details available, preferably an email or telephone number, so the person can choose to follow up the issue formally with you. If they do not wish to take things further, publically it is visible that your business has taken steps to address the issue, which is a positive reflection upon your professionalism.

Should the person follow you up, you can then deal with the complaint away from public eyes, avoiding the unnecessary tit-for-tat which often ensues online. If other people jump into a complaint conversation, be sure to re-iterate your contact details and thank them for their feedback as well. If people jump to defend your business, then rather than actively agree with them it's best to simply focus on the person complaining.

Depending upon the website which the complaint has been made, you may choose to remove it after a period of time, or ask the host site to remove it if possible.

PROBLEM SOLVING

Meet On-Site

Having acknowledged a complaint, you need to set yourself a course of action. Arranging a meeting with the person who made the complaint on-site can be a useful way of finding out more about the problem, as well as demonstrating that you are taking the matter seriously.

- Don't become defensive if they are upset about the situation.
- Remain calm and focus on the problem at hand.
- Investigate the nature of the problem – if it is about noise, is it related to frequency, volume, or something else?
- Find out if there is room to negotiate: would the person tolerate the noise at certain times?
- Try to distinguish between past incidents and future action.
- Ask them what they would do if they were in your shoes.

Obtain Input From Others

- Discuss complaints with your staff at staff meetings. Encourage your staff to present practical solutions to how any issues could be prevented in the future.
- Seek outside advice (e.g. sound engineers or council) about possible solutions.

Present A Range Of Options

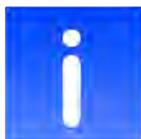
- It helps to present your neighbours with a range of options to resolve any issues. This shows you have considered the problem and makes them a partner in the final solution.
- Be clear about the timeframes needed to implement a solution and the likelihood of success.

- Involve your neighbours in providing feedback about the issues – keep the channels of communication open.
- Remember that legal action should always be a last resort. Legal action is costly and time consuming for both parties and is likely to permanently damage your relationship with your neighbour.

THE CONCILIATION PROCESS

If a complaint is lodged with the Liquor and Gambling Commissioner you will be served with a notice by CBS no later than 7 days after the lodgment. No conciliation meeting or other hearing may be held on the complaint until a 14-day period has passed since the notice was served.

In resolving a conciliation process, it is likely that conditions will be imposed upon a business. This may satisfy and resolve the complaint, however, conditions can also be detrimental to your business trade and restrict the time and sort of live music your business can host. Planning ahead to avoid issues arising is the most effective way to avoid CBS conciliation. If conciliation is unable to resolve a complaint, then the Licensing Courts will determine a resolution which can be at the cost of the business.



RESOURCES

For guidelines relating to disturbances and how to deal with them, see Page 15 of the **General Codes of Practice Guidelines** :

<http://www.cbs.sa.gov.au/assets/files/GCOPGuidelines.pdf>

To read the specific legislative procedure outlined in the **Liquor Licensing Act, 1997** with respect to noise complaints, see here:

http://www.austlii.edu.au/au/legis/sa/consol_act/lla1997190/s106.html

CHAPTER SIX

Venue Safety

Venues that are safe, clean and provide a pleasant atmosphere where patrons can relax and enjoy themselves are likely to attract more customers and be more profitable. Such venues are also an attractive place of employment and cause little disturbance to the local community. There are a number of factors that contribute to providing a safe and secure venue, including building maintenance, surveillance, crowd control and queue management, amenity, hygiene, emergency procedures and fire safety (Note: With respect to fire safety, the *Development Act* provides powers to Council officers to close and evacuate premises should a serious fire risk be present).

MINIMUM REQUIREMENTS

As a venue operator, you are required to comply with any conditions on your liquor licence and development approval, including maximum patron capacities, installation of CCTV systems, crowd controllers, trading hours, amenity, waste storage and collection, and parking.

The LLA recognises the prevention of undue offence, annoyance, disturbance, noise or inconvenience to neighbours, resulting from entertainment, other activities on the licensed premises or the conduct of people making their way to or from the licensed premises.

If your business resides within the CBD and your trading continues between 3am and 7am, the Late Night Trading Code also requires you to undertake certain requirements. These were fully explained in **Apply For A Liquor Licence**, but may be summarised as:

- Ensure your business has information about available public transport and taxi ranks
- Take practical steps to ensure that queues to enter your premises are orderly and won't obstruct footpaths
- At 2am, trading of alcohol in public outdoor areas must cease (this doesn't mean contained outdoor areas like beer gardens, rather approved seating on footpaths and the such)
- No customer can enter your premises between the hours of 3am and 7am
- Should you trade beyond 4am, all non-tempered or non-polycarbonate glassware must be removed from areas accessible by your patrons and all drinks must be served in tempered or polycarbonate glassware.
- You must not promote rapid consumption of alcohol and no beverage sold may contain more than 45ml of spirits.
- If your licensed capacity is more than 200 patrons, then between 12.01am and 7am at least one RP must perform the duties of a Drink Marshall and you must have at least one person on duty who has undertaken nationally accredited first aid training, approved under the Liquor Licensing Act.

- If you also operate within the prescribed Adelaide precinct area, you will also be required by law to operate approved metal detectors and CCTV at all times.

It is a mandatory requirement of all venues to have a management plan which addresses how they plan to trade within legislative requirements. In particular, they want to see procedures addressing issues such as drink spiking, crowd control, noisy patrons and dealing with intoxication. Your management plan needs to be up-to-date and at minimum revised every two years.

Building owners must also ensure their premises complies with the Development Act 1993 regarding maintenance of Essential Safety Provisions. These are the items that are required to be installed in the building to ensure it can be safely used and occupied as a live music venue. This includes the installation of fire safety equipment and disability access and facilities. See the resources section of this chapter for further information.

Finally, your council may also place conditions upon your trading depending upon their policy for licensed venues.

SMOKING LAWS IN SA

Smoking is banned in enclosed public places, workplaces or shared areas under the *Tobacco Products Regulation Act 1997* (TPRA). This is to protect workers and patrons from the harmful effects of passive smoking. If smoking occurs in an enclosed workspace, it is in contravention of the TPRA and you may be fined. See the resources section of this chapter for further information.

Some tips for making these laws clear to patrons include:

- Do not provide ashtrays or other things designed to facilitate smoking in areas where smoking is not permitted.
- Clearly display no-smoking signage.
- Train staff and have procedures in place so that staff will know what to do if they see a patron smoking in an enclosed area.

According to the TPRA, a business must not display signs or engage in a practice of any kind that promotes it as welcoming or permitting smoking on its premises. This means you cannot even promote that you have an area where patrons may smoke.

See the resources section of this section to order no-smoking signage or contact SA Health's Health Protection Operations on 08 8226 7100

From 1 July 2016, the *Tobacco Products (Smoking Bans In Public Areas – Longer Term) Variation Regulations 2015* come into effect. From this date smoking is banned in outdoor dining areas at any time that food is being offered for purchase or otherwise provided. For further information visit the SA Health website: www.sahealth.sa.gov.au/tobaccolaws

FIRE SAFETY

Fire safety may comprise a "package" of safety features which incorporates construction methods, mechanical and electrical devices, management practice and organised human response tailored to reduce the impact of fire upon the occupants, the attending firefighters and any neighbouring property.

In the context of building fire safety, fire impact is considered to be any threat to life and property caused by heat or smoke.

Fire safety cannot be defined as a "single system", it relies upon a group of "sub systems" to form a complete "package". More often than not, if one of the "sub systems" is removed, the whole "package" will collapse and the occupants within the building will face an unacceptable risk in the event of outbreak of fire. For simplicity, the "package" can be broken down into ten principle "sub systems", comprising:

- The building having a Council Development Approval (which covers building fire safety matters) and the building being maintained based on that Development Approval
- occupant training and education
- means of escape from the building
- ignition potential
- fire load
- compartmentation and structural fire resistance
- firefighting systems
- fire detection, alarm and communication systems
- smoke management systems
- fire brigade response.

The Metropolitan Fire Service outline building fire safety guidelines, which are available in the Resources of this section.

As a special note and a critical point, venues should not under any circumstance isolate their smoke detection systems to prevent false alarms during performances. This is usually considered when smoke/fog machines are in use which may activate smoke detection systems.

There are several issues with this practice:

- These smoke detection systems are often an integral component of the buildings' fire safety systems and the 'certificate of occupancy' is issued based on these systems being maintained and fully operational at all times.
- It is illegal to alter these systems if they form the basis upon which the council has approved safe occupancy, without first seeking and gaining approval from the council.
- The MFS does NOT support the isolation of these smoke detection systems. Usually this is requested when the building is at maximum occupancy and early detection of smoke is critical for the safe evacuation of occupants. Artificial smoke can make it more difficult to detect a real fire incident, therefore alternative strategies need to be employed to ensure smoke/fog machines do not interfere with the installed detection systems. These strategies must not include isolation of the detection systems.

If smoke machines or the like are required to support lighting effects, you should advise your Building Surveyor and Building Designers of this early in the Development Approval process so that a more suitable system can be provided right from the beginning.

SYSTEMS TRAINING

- Consult with police and the local fire authority about developing an emergency procedure to incorporate within your management plan. Refer to the *Australian Standard – AS3745-2202*. Emergency control organization and procedures for buildings, structures and workplaces. Ensure that all staff members are familiar with the plan and understand what they should do in an emergency.
- Facilitate discussions between staff members to identify any existing or potential risks associated with the operations under the licence.
- If you identify any significant risks, consider the types of measures that can be implemented or steps that can be taken to address these and ensure that these are included in the venue's management plan.
- Develop a staff procedure manual that contains all the information and obligations of staff when working in your venue. It should contain details about licence conditions, emergency procedures, floor plans with emergency exits, how to deal with noise complaints, how to deal with illegal drug use or dealing, harm minimisation strategies, and other relevant information.
- Keep an incident register and review it periodically to ensure that all incidents are recorded and appropriate follow-up action is taken.
- Conduct evacuation drills every six months.
- Revise your management policy every two years.

PRACTICAL LICENSEE RESPONSIBILITIES

The following are key licensee responsibilities with respect to providing a safe and secure environment:

- Ensure all emergency exits are easily identifiable, accessible and operable during trading hours. In case of an emergency, there can be no restrictions or locks on emergency doors.
- Ensure timely and professional action by Responsible Persons and Crowd Controllers and provide access to a range of training opportunities.
- Develop and maintain a positive relationship between Police and crowd controllers.
- Report any incident of drink spiking, drug dealing or other criminal activity to Police.
- Ensure areas in and near the entrances of your venue is subject to ongoing electronic surveillance and hold the electronic recordings for at least seven days.
- Store images and associated records of incidents that may be of interest to Police on a separate disk, tape or any suitable medium for a period of eight weeks.
- Supplying electronic / video recordings to Police immediately upon request.
- Record journal records of every incident including:

- a) The names of all staff / security personnel involved and listing the badge or responsible person name or number, and
 - b) The entrance and exit used during the incident.
- Retain the journal and make it available to Police upon request.
- Monitor the behaviour and welfare of patrons.
- Ensuring car parks operated by your business are lit to Australian Standards.
- Assisting patrons to access safe transport out of the area (i.e. directing people to bus services, taxi ranks).
- Ensure that Responsible Persons and Crowd Controllers:
 - a) Permit entry only to those meeting the minimum patron standards required by management for entry.
 - b) Permit entry only to those providing, where required, acceptable forms of identification (ID): proof of age card, current drivers licence, keypass card or current passport. Other forms of ID are not acceptable.
 - c) Deny the admission of undesirables at the discretion of management and require unruly patrons to leave.
 - d) Actively discourage all illegal activities by patrons such as drink spiking and drug dealing.
 - e) Monitor patron behaviour when leaving or arriving at licensed premises.
 - f) Inform patrons that Adelaide is a Dry Area and that alcohol cannot be consumed in public nor can opened containers be carried.
 - g) Inform patrons that unattended drinks will be cleared to avoid drink spiking.

BEST PRACTICE

There are a number of steps that you can take, in addition to meeting the legislative requirements outlined above, to improve safety and security at your venue. These include:

Building Design and Equipment

- Maintain clear pathways and lines of sight throughout the venue where possible.
- Minimise the opportunity for over-crowding and the potential for accidental bumping
- Maintain a zone where people can avoid overcrowding and noise, where they can sit and speak easily.
- Minimise waiting periods for toilets and reduce the opportunity for antisocial behavior in toilet areas.
- Consider serving drinks in shatter-proof glass to reduce the risk of injury.
- Even if it is not a condition on your liquor licence, consider the use of security cameras as a tool to deter crime and capture footage that can be used in criminal prosecutions and enhance perceptions of safety. Security cameras can be particularly useful when used at the entry and exit points of a venue.
- Ensure that fire equipment (extinguishers, hose reels, doors etc.) is checked by a qualified person periodically, and that staff are trained in their proper use.



RESOURCES

Metropolitan Fire Service Building Fire Safety Guidelines:
http://www.mfs.sa.gov.au/site/community_safety/commercial/building_fire_safety.jsp

CBS also provides **a General Code of Practice Guidelines** which addresses **venue safety and best practice** here:
<http://www.cbs.sa.gov.au/assets/files/GCOPGuidelines.pdf>

CHAPTER SEVEN

Work Health & Safety

As a venue operator, you are legally responsible for providing a safe environment for all your workers and clientele, including DJs and musicians performing at your venue. This includes eliminating any risks to health and safety and, where this is not feasible, taking action to reduce the risks. This chapter provides background information on health and safety risks that are particularly relevant to the live music industry and resources for gaining further information.

MINIMUM REQUIREMENTS

In South Australia, work health and safety is governed by a system of laws, regulations and compliance codes that set out the responsibilities of Persons Conducting a Business or Undertaking (PCBU's) and workers to ensure that safety is maintained at work.

The Work Health and Safety Act 2012 (SA) and the Work Health And Safety Regulations 2012 (SA) outline the key principles and duties in relation to work health safety, including the requirement that all businesses provide:

- Provision and maintenance of a work environment without risks to health and safety
- Provision and maintenance of safe plant and structures
- Provision and maintenance of safe systems of work
- Safe use, handling and storage of plant, structures and substances
- Adequate facilities for the welfare at work of workers
- Information, training, instruction or supervision
- Health of workers and the conditions at the workplace are monitored for the purpose of preventing illness of workers arising from the conduct of the business or undertaking.

Health and safety risks outlined in the Regulations that are particularly relevant to the live music industry include:

MANAGING & PREVENTING HEARING LOSS

As people respond differently to noise, the exact level at which noise will cause damage is not certain for each person. However, the amount of damage caused by noise depends on the total amount of energy received over time and each person's susceptibility to hearing loss. As your venue hosts live music, it is likely that exposure of your workers to loud noises will occur and it is best practice to help them look after their hearing while on the job.

The acceptable noise exposure standard in the workplace is 85 dB(A) averaged over an eight-hour period. This is not to imply that a safe condition exists below 85 dB(A). It simply means that an eight-hour exposure of 85 dB(A) is considered to represent an acceptable level of risk to hearing health in the workplace.

Impulse or sudden noise levels in excess of the peak exposure standard of 140 dB(C) are considered to be hazardous and capable of causing immediate hearing damage.

This is relevant when considering the noise levels for patrons as well as staff.

The *Code of Practice, Managing Noise and Preventing Hearing Loss at Work* can be found in the Resources section of this section.

PROVIDING AND MAINTAINING A SAFE WORK ENVIRONMENT

Entry and exit

Your workers must be able to safely enter and leave the workplace. This may include making sure that any workers with special needs or disabilities can safely enter and exit.

Housekeeping

Keeping your workplace clean and tidy can minimise injuries resulting from slips and trips. This includes providing sufficient space for storage.

Work areas

Make sure there is sufficient clear space between furniture, fixtures and fittings so that your workers can move about freely without strain or injury, and can also evacuate quickly in case of an emergency.

Floors and Other Surfaces

Floor surfaces should be suitable for the work area. The type of floor surfaces or coverings (e.g. carpet) you should use will depend on the type of work carried out as well as materials used during the work process.

Floors should be inspected regularly and maintained to eliminate slip and trip hazards. Common examples of hazards include trailing cables, uneven edges or broken surfaces, loose mats or carpet tiles.

Lighting

You should provide sufficient lighting (natural or artificial) to allow safe movement around the workplace and for your workers to perform their work without having to strain their eyes.

You must also provide emergency lighting for the safe evacuation of people in the event of an emergency.

Air Quality

You should make sure your workplace is adequately ventilated with fresh, clean air. Workplaces may have natural ventilation, mechanical ventilation (fans or extraction units) or air-conditioning. Natural ventilation should consist of permanent openings, including windows and doors, and may be assisted by mechanical ventilation.

Air-conditioning and other ventilation systems should be regularly serviced and maintained in accordance with the manufacturers instructions.

Heat and Cold

PCBUs should maintain a comfortable temperature for workers with the use of air-conditioning, fans, electric heating and open windows, and by controlling air flow and the source of drafts.

To address potential heat exhaustion and dehydration among patrons, ensure that cold, clean drinking water is affordable and accessible.

Welfare Facilities

You must provide your workers with access to adequate welfare facilities, including:

- clean drinking water
- clean toilets
- hand washing facilities.

Based on the location of your workplace, the size and composition of your workforce and the type of work you are doing, you may also need to provide:

- hygienic dining facilities
- accessible and secure personal storage
- showering facilities.

Providing First Aid

You should develop first aid procedures to ensure that your workers have a clear understanding of first aid in their workplace. There should be a First Aid kit available on premises at all times. Its contents should reflect the potential risks you've outlined in your Management Plan. There should be a dedicated First Aid location. This should be away from the main thoroughfare, well-lit and accessible from outside the venue, as an ambulance/ambulance officer should be able to access the venue and reach the First Aid location freely. The location should be quiet enough to hear breathing.

As a guide, seek medical assistance if a person is:

- Complaining of shortness of breath, dizziness, pounding or racing heartbeat, or chest pain
- Drowsy and cannot be roused
- Behaving abnormally (e.g. confused, disoriented)

A Code of Practice, First Aid in the Workplace, is available in the Resources section at the end of this chapter.

Managing Electrical Risks

A business needs to ensure that:

- power circuits are protected by appropriately rated fuses or circuit breakers
- electrical leads are not arranged so that they are easily damaged, run across floors or doorways, or over sharp edges
- only leads and tools designed for wet or damp conditions are used in those conditions
- circuits where portable equipment may be connected are protected by RCDs
- if any current protective device (RCD or circuit breaker) is triggered, the system is not re-energised until the reason has been identified by a competent person
- equipment identified as unsafe is disconnected or isolated and labelled as unsafe and not reconnected until it is repaired and tested as being safe
- regular visual inspections and testing of electrical equipment, including RCDs, occurs. The nature and frequency of inspection and testing will vary depending on the electrical risks.

Electrical work must only be carried out by a licensed electrician. A risk assessment should be completed prior to initiation of electrical work.

As a general principle, electrical work should not be carried out on energised equipment or cables. Equipment should be tested to determine that it is not energised before work starts.

Building Code Compliance

Building owners must ensure their premises comply with the Building Code of Australia. This includes the installation of fire safety equipment and disability access and facilities. See the resources section of this chapter for further information.

Manual Tasks

Manual tasks cover a wide range of activities that involve using the body to move or hold an object, people or animals. Examples of manual tasks include stacking shelves, loading in musical equipment or erecting security barriers. Not all manual tasks are hazardous. It is therefore necessary to identify those tasks that are hazardous and ensure they are adequately managed. See the Best Practice section of this chapter for further information.

BEST PRACTICE

Sound

Chapter two of these guidelines outlines several measures for reducing sound levels in your venue, including the installation of noise-limiters and sound absorbing materials. If you have implemented all of these measures and the

average sound level in your venue still exceeds 85dB per eight-hour day, the Work Health and Safety Act and Regulations 2012 require that you provide anyone exposed to this sound level for an extended period of time with personal protective equipment, such as personal hearing protectors.

Manual Tasks

The risk of injury from manual handling is particularly high during equipment load-in, set-up, and load out. The weight of the object being moved is just one of many factors that may cause injury. Other factors include the movements and posture required, dimensions and grip of the load, and layout of the workplace. There are a number of steps you can take to reduce the risk of injury during manual lifting, including:

- storing equipment at waist height and as close to the stage area as possible
- using trolleys to transport equipment where practicable
- designating the route of movement prior to moving an object and make sure you have a clear pathway
- ensuring that staff and musicians performing at your venue are aware of safe lifting techniques
- when executing group lifts, ensuring that one person is in charge and position people for the lift having regard to the size, shape and balance of the load.

For further information on reducing the risk of injury during manual tasks, see the Resources section of this section.

Electrical Equipment

All electrical equipment in your venue should be well maintained and regularly inspected and tested (generally known as “test and tag”) in accordance with AS/NZS 3760 for visible damage and electrical standard compliance. Each tag should include the details of the test date, next test date, tracking code and person who has undertaken the work.

Best practice is for electrical equipment to be tested and tagged at least:

- annually in the case of electrical equipment;
- every six months in the case of extension cables;
- before and after every hire in the case of hired equipment;
- every five years in the case of non-moveable fixed electrical equipment; and
- immediately after repair and before use in the case of electrical equipment that has been repaired.

Testing and tagging can be done by a licensed ‘A’ or ‘B’ grade electrician or a trained competent person. See the resources section of this chapter for further information.

Lighting Equipment

Any lighting equipment likely to reach high temperatures should be guarded to prevent overheating. In addition, certain forms of lighting have the potential to adversely affect the health and safety of people in your venue:

- Strobe lighting can induce epileptic seizures. Flicker rates of four

flashes per second or fewer are recommended and all strobes should be synchronized when more than one strobe is used.

- Exposure to UV light can harm the eyes and the skin, particularly among people taking certain prescription drugs. You should avoid using UV lights wherever possible and if they must be used, take steps to minimise harm, such as enclosing the source of the light or eliminating reflection.
- Lasers can cause serious harm, particularly to the eyes and skin. Of the five classes of lasers, only Class 1 are considered intrinsically safe and Class 2 are only considered safe in some circumstance. Class 3A, 3B and Class 4 lasers require special precautions and should not be used except under carefully controlled conditions by a trained operator.

The Australian Hotels Association SA branch provides training in work health and safety.

www.ahasa.com.au/events-and-training



RESOURCES

For a copy of the legislative framework:

Work Health & Safety Act 2012

<http://www.legislation.sa.gov.au/lz/c/a/work%20health%20and%20safety%20act%202012.aspx>

Work Health & Safety Regulations 2012

<http://www.legislation.sa.gov.au/LZ/C/R/WORK%20HEALTH%20AND%20SAFETY%20REGULATIONS%202012.aspx>

For further information about ***Work Health & Safety in SA***, refer to **Safework SA:**

http://www.safework.sa.gov.au/show_page.jsp?id=2263

Code Of Practice Managing Noise And Preventing Hearing Loss At Work:

http://www.safework.sa.gov.au/uploaded_files/CoPManagingNoisePreventingHearingLossWork.pdf

Code Of Practice Managing Electrical Risks In The Workplace:

https://www.safework.sa.gov.au/uploaded_files/CoPManagingElectricalRisksWorkplace.pdf

Code Of Practice Managing The Work Environment & Facilities:

https://www.safework.sa.gov.au/uploaded_files/CoPManagingWorkEnvironmentFacilities.pdf

Code Of Practice First Aid in the Workplace:

https://www.safework.sa.gov.au/uploaded_files/CoPFirstAidWorkplace.pdf

Code of Practice Hazardous Manual Tasks:

http://www.safework.sa.gov.au/uploaded_files/CoPHazardousManualTasks.pdf

CHAPTER EIGHT

Dealing With Unruly Patrons

It is important that venues have strategies to manage troublesome, aggressive, intoxicated or disorderly patrons. Having a clear plan on what to do reduces the risk of these patrons causing injury to themselves or others, and maximises the opportunity for your venue to be a pleasant and safe place for people to enjoy.

MINIMUM REQUIREMENTS

Under the LLA it is an offence to sell or supply liquor to intoxicated people. The licensee, the RP and the staff member who sell the liquor are each guilty of an offence with a \$20,000 fine for first offenders and a \$40,000 for subsequent offences.

Licensees and staff that supply liquor under the LLA are required to complete a RSA program within three months of commencing employment. These programs teach staff, among other things, strategies to handle difficult customers.

In addition, the LLA sets out a number of options to remove or bar a person from your licensed premises. These are:

- Under Section 124 of the LLA:
 - An authorised person (licensee, RP or appropriately certified crowd controller) may, if necessary, use reasonable force to remove any persons who is intoxicated or behaving in an offensive or disorderly manner. This includes people whose speech, balance, coordination or behavior is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.
 - An authorised person may prevent the entry of such a person on licensed premises.
 - An authorised person may remove from the premises any person who is reasonably suspects of supplying liquor to another person who is intoxicated.

- Under Section 125 of the LLA:
 - A licensee or responsible person may bar a person from entering or remaining on the licensed premises for a specific period of time if they are satisfied that the welfare of the person (or the welfare of others with the person) is seriously at risk as a result of the consumption of liquor
 - A person may also be barred if they commit an offence, or behave in an offensive or disorderly manner, on, or in an area adjacent to the licensed premises
 - A person may also be barred from a licensed premise on any other reasonable ground.

The Commissioner of Police and police officers of a specified rank are also allowed to bar persons from a licensed premises or multiple licensed premises for specified periods. Police have the power to bar people from all licensed premises, from all licensed premises in a particular area or all licensed premises of a particular class. The grounds of barring can be on:

- reasonable grounds based on criminal intelligence
- welfare grounds
- offences or offensive, disorderly behaviour on or adjacent to licensed premises
- other reasonable grounds

While the LLA does not specify how barring orders issued under Section 125 are to be kept, it is recommended that copies of barring notices be kept in a place which is accessible or visible to staff (but not to members of the public). It is very important that staff should be given full particulars of patrons who have been barred.

WHAT HAPPENS IF A BARRED PERSON ENTERS THE PREMISES?

A licensee, a responsible person for the licensed premises or an employee of the licensee who allows a barred person to enter or remain in the licensed premises is guilty of an offence. The maximum penalty which may apply is \$1,250.

A person who enters or remains in a premises from which he or she is barred is guilty of an offence. The maximum penalty which may apply is \$1,250.

The licensee, a responsible person, an approved crowd controller or a police officer may prevent a barred person from entering the licensed premises, or request a barred person to leave the licensed premises. If the person refuses, they may use only such force as is necessary to remove them.

CROWD CONTROLLERS

In South Australia, there is currently no legislated minimum number of crowd controllers required on licensed premises. The Liquor and Gambling Commissioner generally relies on the discretion of licensees, though it is important to note that crowd controllers are trained professionals with respect to managing large crowds and dealing with unruly patrons. It is best practice for a licensed business to engage with crowd controllers in South Australia whenever there is an identified risk with respect to crowd management that could not be reasonably handled by a licensee or responsible persons.

According to the *LLA*, the Liquor and Gambling Commissioner must approve crowd controllers employed by a licensed premises. An approved crowd controller must not use force to remove a person from a licensed premises, except under the direct supervision of the licensee or the responsible person on that occasion.

See the Resources of this section for best practice when looking to contract or employ crowd control staff.

BEST PRACTICE

Things that live music venues can do to meet best practice include:

Training and Communication

- Develop a patron code of conduct and display it at all entry points. A patron code of conduct outlines patrons' responsibilities and the conditions of entry into the venue.
- Ensure that bar staff and crowd controllers are aware of the expectations, policies and procedures regarding venue operations.
- Ensure crowd controllers are inducted into the worksite and are familiar with the emergency evacuation procedure.
- Hold a debriefing for staff and crowd controllers at the end of each night to discuss any security issues and identify areas for improvement.
- Keep a security incident register, review it regularly and make the necessary modifications to security management to address recurring problems.
- Ensure that a staff member with first aid training is rostered on at all times and first aid materials are stocked up regularly.
- Ensure pricing practices and promotions do not encourage alcohol misuse or rapid consumption.
- Promote alcohol-free beverages, low-alcohol beverages, bar snacks and meals, and encourage patrons to drink water.

Crowd Management

- Develop a crowd management policy that aims to defuse high-risk situations and minimise the potential for antisocial behavior to escalate.
- Facilitate staff and crowd controllers communicating about crowd behavior by providing appropriate communication equipment.
- Ensure that crowd controllers clearly understand their roles and responsibilities, including diffusing issues before they escalate and the appropriate levels of physical intervention.
- Designate an area in the venue away from the main entertainment area where potentially violent situations can be defused.
- Establish strategies for clearing objects that could inadvertently cause injury or be used as a weapon, such as glasses, bottles and chairs in walkways.
- Consider installing CCTV at entries and queuing areas to assist in surveillance and deter antisocial behavior.
- Ensure that bar and security staff have a clear view throughout the premises. This might include raising the level of the floor behind the bar, removing promotional materials or furniture that obstruct the view between the entry and the bar, or relocating lighting controls for easy.



RESOURCES

Liquor Licensing Guide for the approval of crowd controllers:

<http://www.cbs.sa.gov.au/wcm/licensing-and-registration/liquor/approval-of-a-person/>

CBS Fact Sheet – Barring a Person from a Licensed Premises:

http://www.cbs.sa.gov.au/assets/files/IS_BarringaPersonfromaLicensedPremises.pdf

Adelaide City Council outline their requirements for ***Crowd Management & Dispersal*** as part of their ***Liquor Licensing Operating Guidelines***:

<http://www.adelaidecitycouncil.com/assets/Policies-Papers/docs/OPERATING-GUIDELINES-liquor-licensing.pdf>

The CBS also provides good information as part of their ***General Code of Practice Guidelines*** addressing venue safety and best practice:

<http://www.cbs.sa.gov.au/assets/files/GCOPGuidelines.pdf>

CHAPTER NINE

Hosting Underage & Youth Events

Hosting live music events where minors may attend is a great way to contribute to the live music industry. Such events generate interest in music among young people and provide them with an opportunity to see their favourite performers in a safe and controlled environment. Hosting live music events at your venue will also help young people learn how to act appropriately on licensed premises.

THE LETTER OF THE LAW

- Upon entrance to a licenced premises, and also upon request of service it is a requirement that valid identification is presented to members of staff from anyone suspected of being under the age of 18, as per regulation 18 of the Liquor Licensing (General) Regulations 2012.
- It is unlawful for liquor to be sold or supplied (given or passed on) to a person who is under the age of 18.
- Minors are not allowed in an area designated as out of bounds to them. For an area to be declared out of bounds, the licensee must apply to the Liquor and Gambling Commissioner to designate the area out of bounds to minors. Under section 111 of the LLA, a sign must be prominently displayed at all entry points to the designated area.
- For all licences (other than an Entertainment Venue Licences), minors are not permitted from entering or remaining in licensed premises between the hours of midnight and 5 am, unless in:
 - a dining room;
 - a bedroom; or
 - a part of the licensed premises approved by the Liquor and Gambling Commissioner as an area where minors are permitted. For example, a family New Year's Eve party in a function room.
- For an Entertainment Venue Licence, minors are not to enter or remain on premises between the hours of 9 pm on one day and 5 am of the next unless in a part of the licensed premises approved by the Liquor and Gambling Commissioner.
- A sign containing prescribed information must be prominently displayed in all areas of the licensed premises where minors are permitted.
- Minors found on premises in contravention on the LLA must leave the premises immediately.
- Minors allowed in certain licensed premises (under regulation 17 of the General Regulations) include those minors who are at least 16 years of age and are engaged in providing entertainment, or as employees.

UNACCEPTABLE PRACTICE

- You must not advertise or run promotions that are linked to events that appeal to, or are especially relevant to minors (for example, promotions linked to "Schoolies Week" or "after parties" etc.).

- You must not use characters, imagery, designs, motifs, interactive games, merchandise or media that is likely to appeal to minors.
- You must not use role models, celebrities or other testimonials that primarily appeal to minors.
- You must not place advertisements for the licensed business in close vicinity to a primary or secondary school or other place primarily frequented by minors

RISK ASSESSMENT IN RELATION TO MINORS

It is prudent as the licensee to consider the following questions if minors are to be present in your business. Answers to these questions should help inform your **Management Plan**:

- List the reasons why minors might enter onto your premises. Are they there for the entertainment that you provide? Are they there for a meal?
- Are minors who attend your premises usually accompanied by a parent or guardian?
- Between what times are minors generally present?
- In what areas of your premises are minors permitted and what areas are out of bounds to minors?
- How often do you conduct special promotions?
- What type of promotions do you conduct?
- Do the promotions you conduct involve products that might particularly appeal to minors?
- How do you promote your business (e.g. TV, newspaper, radio, posters)?
- Are any of these means of advertising likely to particularly appeal to minors?
- Are your premises or advertisements (e.g. posters) located near a local school?
- Who are your promotions/advertisements aimed at? What age group?

BEST PRACTICE ACCORDING TO THE LLA

CBS lists the following recommended practices as part of their guide to the General Codes Of Practice. The following will help you assist with compliance:

- Refuse service of alcohol to any person who you suspect may be underage and does not have identification (ID) to show otherwise.
- Ensure that staff are aware of the types of acceptable ID that can be accepted as proof of age:
 - A current photographic driver's licence
 - A current photographic Proof of Age card
 - A current passport, bearing a photograph of the person, enabling the age of the person to be determined
- If areas of licensed premises have been declared out of bounds to minors, ensure that relevant signs are placed at all entry points to those areas.
- Where appropriate (for example, late trading or entertainment venues) display signage which indicates that patrons may be asked for proof of age upon entry (signage may deter minors from attempting to enter the premises).

- Where appropriate, require patrons to provide proof of age before entry onto the licensed premises.
- When checking ID adopt the following strategies in order to effectively detect fraudulent, fake or defaced cards:
 - Examine the ID in well-lit areas where alterations will be more easily detected
 - Ask the patron to remove their ID from their wallet for you to inspect
 - Feel around the photo, birth date and edges of the card for wrinkles, bumps or air bubbles which could mean the ID has been tampered with
 - calculate the date of birth on the ID to ensure that it does in fact confirm that the patron is over 18 (driver's licences can be issued for 16 and 17 year olds)
 - check the ID for holograms or other security features that would indicate that the card is legitimate.
- If you suspect that the ID offered by the patron may be fake, ask some simple questions that the patron should be able to easily answer such as:
 - What month were you born?
 - What is your middle initial?
 - What is your postcode?
- If your premises is using "pass outs" or wrist bands, closely screen anyone trying to re-enter the premises as "stamp outs" can be easily transferred.

INDUSTRY BEST PRACTICE

Promoters and Performers

- Most live music events are arranged by promoters rather than the performing musicians. Ask prospective promoters to provide you with contact details for professional referees so that you can check the promoter's credentials.
- Ensure that ticket prices are affordable for young people. Most music venues will charge the promoter a fee to cover basic staffing and crowd controller costs and may charge a set amount for each patron.
- Ensure that performance agreements highlight the LLA's conditions for hosting underage events and are signed by all parties. Performers should also be directed to avoid using coarse language and discourage dangerous behavior such as stage diving. For general information on performance agreements, see the **Best Practice Guide for Live Music Venues in South Australia**.

Crowd Control

- Establish a crowd control plan based on the expected number of patrons, style of music and expected crowd behavior, and situate crowd controllers around the venue accordingly.
- Supervise the queue before the show to ensure that attendees are queuing in an orderly manner and are clear of any roads or clearways.
- Publish the playing times on your website, on tickets and outside the venue so parents and guardians can determine when the event starts

and finishes. Include details of an appropriate area to drop-off and pick-up attendees before and after the show.

- After the event finishes, supervise the departure of patrons to the parent pick-up area or public transport stations.
- Direct crowd controllers and staff to check toilets regularly and watch for any bullying or antisocial behaviour throughout the show.

Conditions of Entry

- Ensure that the conditions of entry are clearly displayed on tickets, promotional materials and at the door. Direct door staff and crowd controllers to reinforce these conditions to attendees upon entry.
- You may wish to conduct bag checks before the show to ensure that attendees do not bring alcohol or other inappropriate products into the premises. Ensure that there is at least one female crowd controller at the entrance to check the bags of female attendees.

First Aid

- If possible, set up the first aid station in a separate room that is close to the main performance area.
- Establish a process for dealing with young people who show signs of drug or alcohol intoxication when arriving at your venue.



RESOURCES

Refer to the **General Code Of Practice Guidelines** for further information:

<http://www.cbs.sa.gov.au/assets/files/GCOPGuidelines.pdf>

CHAPTER TEN

Providing Information on Public Transport

Ensuring that patrons are able to get home safely after leaving a venue is important for a number of reasons. It minimises the risk of people becoming frustrated and potentially aggressive outside your venue, it prevents crowds from forming on footpaths and roads that could lead to safety and amenity issues, and it makes your venue more attractive as a place to socialise.

BEST PRACTICE

There are a number of steps you can take to assist patrons depart your venue safely and avoid crowds forming on the footpath or road.

- Ensure that all bar and door staff are aware of:
 - the location and routes of nearby public transport services, including buses that run late into Friday and Saturday nights, and the approximate times these services cease to operate;
 - the location of nearby public or private car parking facilities; and
 - the contact details for local taxi services and any designated taxi ranks near the venue.
- Encourage groups of people who have driven to your venue to nominate a designated driver for the night. Consider introducing a venue policy of providing designated drivers with free soft drinks or bar snacks.
- Direct bar staff to monitor any patrons who are drinking alcohol and have indicated that they intend to drive home. If there is a risk that they are over the blood alcohol limit, encourage them to use alternative modes of transport to get home and to collect their car in the morning.
- Direct crowd controllers or staff to manage patrons who are waiting for taxis outside your venue to ensure orderly queuing and acceptable behavior.
- Notify local taxi companies when events are being held at your venue and the time they are expected to finish.
- Have a phone available for patrons to use free of charge to call a taxi, friend or relative to collect them from your venue.
- Promote late-night transport options on promotional material including the venue's website.



RESOURCES

For bus, train & tram schedules, visit the **Adelaide Metro** website:

<http://adelaidemetro.com.au/>

For information on **Taxi Services**, including contact numbers and links to authorised smart phone apps:

<https://www.sa.gov.au/topics/transport-travel-and-motoring/public-transport-and-travel/getting-around-adelaide/taxis>

CHAPTER ELEVEN

Sexual Harassment Best Practice

Sexual harassment and sexual assault are pervasive experiences across all licensed venues, including live music venues. Sexual harassment and sexual assault can significantly impact upon the safety and well-being of patrons, and can deter people from going out to venues. Patrons can often feel reluctant to speak up if someone is harassing them. There are many steps that venues can take to help prevent sexual harassment and sexual assault, to intervene when it is occurring, to encourage patrons to report incidents to staff, and to respond appropriately when a patron has been harassed or assaulted. By taking action against sexual harassment and assault, venues can help to create safer spaces for everyone to enjoy their night out.

In South Australia, it is unlawful to discriminate because of:

- age
- association with a child (in customer service or accommodation)
- caring responsibilities
- chosen gender
- disability
- marital or domestic partnership status
- pregnancy
- race
- religious appearance or dress (in work or study)
- sex
- sexuality
- spouse or partner's identity

Discrimination laws also cover:

- sexual harassment
- victimisation
- whistleblowing.

PLACES WHERE DISCRIMINATION IS UNLAWFUL

The *Equal Opportunity Act 1984* (SA) only covers discrimination that happens in public life, not in private. In South Australia it is unlawful to discriminate in:

- work, including volunteers
- customer service
- clubs and associations
- advertising

LOSS OR HUMILIATION

Discrimination is against the law when, as a result, someone:

- feels humiliated, embarrassed, ridiculed, denigrated or segregated
- is denied access or refused services
- loses an opportunity or income.

TIME LIMITS

A complaint about something that happened can be made within 12 months of that date to the Australia Human Rights Commission. Late complaints can be accepted in some cases.

DEFINING SEXUAL HARASSMENT

Sexual harassment is any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature where a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Examples include:

- unwelcome physical touching
- staring or leering
- suggestive comments or jokes
- unwanted requests to go out on dates
- requests for sex
- emailing pornography or rude jokes
- sending sexually explicit texts
- intrusive questions about your private life or body
- displaying posters, magazines or screen savers of a sexual nature.

Everyone has the right to be safe and free from harassment while at your venue. The Sex Discrimination Act 1984 also covers you if you are sexually harassed when you are purchasing or providing a good or a service. It also prohibits sexual harassment conducted through new technologies.

BEST PRACTICE

Sexual harassment disproportionately affects women with 1 in 5 experiencing sexual harassment in the workplace at some time. However, 1 in 20 men also report experiencing sexual harassment in the workplace. Within the music industry, as with all industries, it is the responsibility of management to assess and resolve situations where sexual discrimination and harassment may have occurred. Taking immediate action can help stop sexual harassment and improve the situation for others in the future.

Key information

- To actively prevent instances of sexual harassment and assault at a venue, adoption of a zero tolerance policy for all forms of sexual harassment and assault, between patrons, staff, performing artists, security, of any other person engaged to work at, or visiting the venue is required.
- Recognition that sexual harassment and assault is any behaviour that is directed at a person based on their gender, sexuality or gender identity (actual or assumed).
- Recognition that women are primarily the target of sexual harassment and assault by men, however both can occur to any person, regardless of gender or sexuality.

Prevention

- In the majority of cases, staff should not be reasonably expected to flirt with patrons or dress provocatively. Even in venues that offer adult entertainment or sexualised performance, no staff member should be expected to put up with unwanted sexual advances or harassment from patrons or other members of staff.
- Staff should monitor patrons they believe may be the target of, or vulnerable to an instance of sexual harassment or assault, and actively monitor or check their well-being. Patrons who are intoxicated, or are disorientated, are under the influence of drugs or other substances or appear to be being targeted require an immediate response from staff.
- Sexual harassment and sexual assault are often supported or promoted by the broader culture of a venue. Venues may contribute towards the prevention of these behaviours by:
 - Promoting gender balance of staff, security, performers etc.
 - Being inclusive of gender and sexual diversity
 - Promoting a venue culture that is safe and respectful.

All staff should be required to:

- Understand and adhere to the venue's policies for identifying and responding to instances of sexual harassment and assault at all times
- Take all reasonable steps to identify and respond appropriately to any instance of sexual harassment and assault experienced by or reported to them, or that they become aware of
- Support other members of staff who need assistance in responding to an incident
- Support other staff members who experience sexual harassment or assault
- Recognise, and be respectful of the fact that not all persons who have experienced sexual harassment or assault will wish to be considered or referred to as a "victim", but that this does not diminish the seriousness of an incident
- Engage security and police where required.
- Ensure all details of an instance are recorded in the venue's incident log
- Ensure staff involved in identifying or responding to an incident feel supported
- Ensure police are engaged for all serious incidents

Incident Response

If an incident is reported to a staff member, or they become aware of an incident or believe there is a likelihood of an incident occurring, all necessary steps must be taken to eject the perpetrator (and if necessary, their friends) from the venue. Wherever possible, the perpetrator's identity must be sought and recorded in the incident log.

Staff have a responsibility to respond to all incidents.

Any response to an instance of sexual harassment and assault that displays any of the following behaviours is unacceptable:

- not responding immediately
- being dismissive or downplaying the seriousness of an incident

- blaming the victim for what has happened, or justifying the perpetrator's behaviour
- ejecting the victim from the venue
- refusing to eject the perpetrator from the venue
- doubting or disbelieving a victim or witness
- not engaging security and police upon the victims request (or automatically in the case of a serious incident)
- not recording details of the incident, or destroying records or video/audio footage of an incident

Training & Communication

- All staff should be trained in how to identify and respond appropriately to incidents of sexual harassment or assault.
- All staff should be familiar with, and have ready access to the venue's policy on identifying and responding to incidents of sexual harassment and assault, as well as the venue's code of conduct and other relevant policies.
- Staff should be made aware that they will not be disadvantaged for reporting or responding to an instance of sexual harassment or assault within the venue.
- It is important to communicate to patrons that they can approach staff if they are being harassed, that they will be believed, and that appropriate action will be taken.

Ensure that as part of your hiring and training procedures for new staff that sexual discrimination and harassment is defined and a no tolerance policy is outlined. If required, education and resources and training is available from the Equal Opportunity Commission can prevent sexual harassment. The Equal Opportunity Commission free of charge.

Whether dealing with staff or patrons, take reports of sexual discrimination and harassment seriously. Talking to the staff concerned can help as sexual harassment may stop if objections are made.

In addition, serious evidence of sexual harassment can constitute reasonable grounds for removal or barring of a person from your venue, so long as the evidence appears reasonable to act against.

Ensure that you as a licensee, any responsible persons on duty and approved crowd controllers has adequate training in understanding how to deal with instances of sexual harassment and discrimination.



RESOURCES

For further information, visit the **Equal Opportunity Commission** website:

<http://eoc.sa.gov.au/>

Sexual Harassment Fact Sheet:

http://www.eoc.sa.gov.au/sites/eoc.sa.gov.au/files/attachments/factsheet_sexual_harassment.pdf

Finding detailed **legal information** on Sexual Harassment:

<http://www.foolkit.com.au/sa/public/finding-detailed-legal-information>

The author of *The Regulatory Framework for Live music Venues in South Australia* would like to acknowledge the invaluable contribution of the LISTEN Collective towards the information detailed here. The Australian Music Industry is unified in our zero tolerance approach to sexual harassment and discrimination.

CHAPTER TWELVE

APRA AMCOS Reporting & The PPCA

WHY DO YOU NEED A LICENCE TO USE MUSIC IN YOUR BUSINESS?

When music is played and/or performed live, made available online or copied, the business authorising that music use almost always requires a licence. This covers the rights of the songwriter, composer and music publisher who made and own the piece of music. The organisations responsible for collecting and administering royalties on behalf of these rights holders are the Australasian Performing Right Association (APRA) and the Australasian Mechanical Copyright Owners Society (AMCOS). Incidentally, they operate together as APRA AMCOS.

It is not just important for you to have permission from the copyright owners and pay for the right to use music for the benefit of your business; it is also a legal requirement too.

Uses of music licensed by APRA AMCOS include background music, live performances, call waiting music, karaoke, radio and TV broadcasts, music on your website and much more. If music is a part of your business either for customers or staff then you will need a licence. Most businesses will generally be covered by one simple licence agreement. APRA AMCOS handle more complex licences for events, multi-premise businesses, web portals, music streaming services and production studios.

WHEN YOU WON'T NEED TO REPORT TO APRA AMCOS

You won't need a licence if the bands at your venues are playing their own original music and they are not members of APRA AMCOS. If they are members of APRA AMCOS, then you will need a licence because they have authorised us to licence public performances of their music on their behalf. Alternatively, you can negotiate a direct licence with the band. If you choose to do this and the band agrees, they will need to apply for a licence-back or opt-out arrangement with APRA AMCOS. They will also need to ensure that they get the consent of any co-writers who may have an interest in any of the works they will be performing.

BEST PRACTICE FOR APRA AMCOS LICENSING

There have been known precedents where venues have passed on their licensing fee through additional charges to artists performing at their venue. This is unacceptable practice – effectively you are asking an artist to pay to licence their own music, which is an exploitative practice.

To avoid tarnishing your business reputation, becoming a venue that musicians actively avoid and potential legal issues, your business should maintain up-to-date payments of your licensing fees. If you have any

questions regarding licensing, be sure to speak to a representative from the APRA AMCOS office.

THE PPCA

The PPCA (Phonographic Performance Company of Australia) grant licences for the broadcast, communication or public playing of recorded music (e.g., CDs, records and digital downloads) or music videos. They then **distribute the licence fees** to the record labels and Australian recording artists registered with them under their [Distribution Policy](#).

There are **at least two copyrights** in most recordings and music videos:

1. the copyright in the song (lyrics, composition etc.) – licences available from [APRA](#);
2. the copyright in the recording and/or music video of the song (a particular recorded performance) – 'blanket' licences are available from the PPCA, or individual licences available from the copyright holders - licences available from PPCA

The benefits of playing recorded music in your business are many and varied. PPCA make it simple to put music to work for you with a 'blanket' licence that covers nearly all recordings commercially released in Australia.

Currently, the PPCA licence over 55,000 venues Australia-wide, including clubs, hotels, bars, restaurants, fitness centres, shops, halls and dance studios, and also grant licences to radio and TV stations.



RESOURCES

For more information on **Licence Types** read here: <http://apraamcos.com.au/music-customers/licence-types/>

Contact the **South Australia Office for APRA AMCOS** to speak to a representative if you have further questions about reporting:

APRA SA Office
(08) 8331 5800
Suite 29, 8-20 O'Connell Street,
North Adelaide SA 5006

To contact The PPCA on licensing matters:

Phone: (02) 8569 1111
or email: licensing.mail@ppca.com.au

ADDITIONAL RESOURCES

Live Performance Australia (LPA)

LPA is the peak body for Australia's live entertainment and performing arts industry. LPA's activities centre around workplace relations, policy and strategy, and membership services and events. The LPA website includes useful links to industry codes and guidelines, including Safety Guidelines for the Entertainment Industry.

Visit <http://www.liveperformance.com.au>

Music SA

Music SA is a not for profit company for the South Australian music industry; an independent and non-partisan body established to support contemporary music across all genres. Music SA has a wealth of information for musicians & venues, including links and resources regarding grants and funding, education and training, and promotional opportunities.

Visit <http://musicsa.com.au>

Australian Music Industry Network (AMIN)

AMIN advocates on the behalf of its members and state and territory music industry associations. The AMIN website features several handy fact sheets and checklists for both venues and musicians.

Visit <http://www.amin.org.au/>

Renewal SA

Renewal SA provides case management services for Small Bars and runs City Makers which provides funds to help with building compliance issues such as noise, fire safety, heritage and accessibility. Visit

<https://renewalsa.sa.gov.au/>

Media, Entertainment and Arts Alliance (MEAA)

The MEAA is a union and professional organisation that covers people working in the media, entertainment, sports and arts industries. The MEAA offers a range of services to members, including legal advice and industrial representation.

Visit <http://www.alliance.org.au/>

Arts Law Centre of Australia (ALCA)

The ALCA is a not-for-profit company that provides legal advice and information on a range of arts related matters, including contracts, copyright, defamation, insurance and taxation. Visit <http://www.artslaw.com.au/>

Live Music Office

The Live Music Office works to increase opportunities for live music in Australia by identifying and advocating for better policy & regulation. Established by the Federal Government, in partnership with APRA AMCOS, the Live Music Office was set up to review the impact of policy frameworks on the Australian live music sector. Templates & resources are available for artists & venues. <http://www.livemusicoffice.com.au>

Australian Hotels Association SA Branch

The Australian Hotels Association (South Australian Branch) is an integral part of the South Australian hospitality and tourism industry and represents and protects the commercial interests of hoteliers throughout South Australia. The AHA|SA staff consists of a number of highly credentialed professionals who are experts in their chosen fields. This ensures the AHA|SA is well equipped to give members the highest possible level of service including advice, events and training. www.ahasa.com.au