

NOISY NEIGHBOURS



This information is general and should not be relied upon as a substitute for legal advice. The Legal Services Commission provides free advice for most legal problems. Contact the Legal Helpline on 1300 366 424 www.lsc.sa.gov.au www.lawhandbook.sa.gov.au

Noise from neighbours is a common source of nuisance, and for some people can be very upsetting. The main problems are caused by barking dogs, loud music or TV, shouting, banging doors and cars. Remember that no house or flat is totally sound proof – everyone can expect some noise from neighbours.

If your neighbours disturb you with unreasonable amounts of noise, it is a good idea to let them know that it is disturbing you. Try to be friendly and polite even if you are very annoyed about their behaviour. Your neighbour may not even be aware that the noise they are making could be disturbing you. If the problem continues, you could try writing a letter explaining the affect the noise is having upon you.

Legal action should only be used as a last resort as it tends to make relations between neighbours worse in the future. It is best to try to sort out issues with your neighbour directly or with the help of a mediator.

COMMUNITY MEDIATION SERVICES

Before taking any legal action against your neighbour, try talking to a community mediation service. They can help you arrive at a resolution without causing unnecessary stress, without involving police, and without taking sides. Mediation encourages neighbours to work out their own solutions to disputes and a successful outcome will help to preserve ongoing relationships. Community mediation services are confidential. For more information and advice about mediation, telephone Uniting Communities Mediation Service on 8342 1800.

HOW MUCH NOISE IS UNREASONABLE?

Depending on the circumstances, if noise falls within the definition of a local nuisance under the Local Nuisance and Litter Control Act 2016 (SA), complaints can be handled by your local council. The following noisy activities may fall within the definition of a local nuisance if the level, nature and extent of the noise unreasonably interferes with the enjoyment of neighbouring premises:

Fixed machine noise (domestic)

Noise from fixed machinery on domestic premises (such as air conditioners) that travels from those premises to a habitable room, or outdoor courtyard area or entertainment area, on neighbouring premises.

The Environment Protection (Noise) Policy 2007 (“the Noise Policy”) may be of some assistance in providing guidance on the level of noise. For example under the policy a machine is deemed to be too noisy if measurements taken between 7 am and 10 pm on the same day show the continuous source noise level exceeds 52 dB(A), or 45 dB(A) between 10 pm on one day and 7 am the following day.

Domestic activity

Noise from machines such as lawnmowers, power tools and other equipment that travels to neighbouring premises between the hours of 8 pm and 8 am (9 am and 8 pm on Sunday).

Under the Noise Policy, the domestic activity is deemed to be too noisy if measurements taken show that the continuous source noise level exceeds the ambient noise level and 45dB(a) or the maximum source noise level exceeds the ambient noise level and 60 dB(A).

Construction noise

Construction noise that travels to neighbouring premises before 7 am and after 7 pm from Monday to Saturday, or at any time on a Sunday or public holiday. However, the Noise Policy states that construction may occur on a Sunday or public holiday between 9 am and 7 pm, and before 7 am on any other day if it is necessary to avoid an unreasonable interruption to traffic. All reasonable and practicable measures must be taken to minimise the noise and its impact.

NOISY NEIGHBOURS



Rubbish collection, street sweeping and tree maintenance

Rubbish collection, public street sweeping and tree maintenance noise that travels to neighbouring premises before 7 am and after 7 pm (before 9 am and after 7 pm on a Sunday or public holiday). However, the Noise Policy states that these activities can occur outside of these times if it necessary to avoid an unreasonable interruption to traffic.

Alarm systems

Under the Noise Policy, a building intruder alarm system must automatically cease to sound within 5 minutes after initial activation and should be positioned in such a way as to reduce the impact on neighbouring premises.

NOISE THAT IS NOT A “LOCAL NUISANCE”

Noise consisting primarily of music or voices (including parties) and revving cars – these complaints should be reported to police who have wide powers to stop excessive noise.

Barking dogs or other animals – contact your local council. If a dog/s creates noise which persistently occurs or continues and unreasonably interferes with your peace and comfort, your local council maybe able to issue the owner with a Control (Barking Dog) Order or fine under the Dog and Cat Management Act 1995 (SA).

Noise from a school, kindergarten, child care centre or church – contact the relevant organisation.

Licensed premises – complaints regarding licensed premises such as pubs and restaurants are dealt with by Consumer and Business Services, telephone 131 882.

WHAT CAN BE DONE ABOUT A LOCAL NUISANCE?

If you are unable to sort the issue out with your neighbour directly or with the help of a mediator, you can make a complaint to your local council. Authorised officers at your local council can decide whether or not particular noise constitutes a local nuisance and may issue a nuisance abatement notice (requiring a person to stop making the noise) or a fine.

If you are affected by a local nuisance you may also make an application to the Environment, Resources and Development Court for orders to stop the nuisance. However, if the application is unsuccessful, you may be required to compensate the other party and pay their legal costs. You may also be required to cover these costs at the outset (called payment of security for costs). Legal advice should be sought before making an application to the court.