



City of
Mount Gambier

Local Nuisance and Litter Control

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Local Nuisance & Litter Control

[Local Nuisance](#)

The Local Nuisance and Litter Control Act 2016 (the Act) was developed to support and enhance local amenity values by making specified matters such as noise and odour a local nuisance.

In the first instance a person should try and discuss concerns with the people (e.g. neighbours) from where the nuisance is coming from, as they may not be aware that they are causing a nuisance. Concerns should be raised and discussed, and suggestions provided to resolve problems - simple solutions can often be found that satisfy everyone.

Generally, Council will become involved if an issue within the community (e.g. between neighbours) cannot be resolved. Council will then try to work with the person causing the alleged nuisance to try and resolve the matter.

[What is a local nuisance?](#)

Local nuisance is described as being any adverse impact on an area, which unreasonably interferes with, or is likely to unreasonably interfere with, the enjoyment of that area, by the community.



Local Nuisance & Litter Control: Litter

Littering and illegal dumping is a highly visible form of environmental pollution which has the potential to be harmful to people and the environment. Such activities also represent significant issues for the community, with impacts on amenity and health as well as significant clean-up costs for local government, state government and private landowners.

What is Litter?

Litter can be any object disposed of by a person, either onto land or into any waters whether by a pedestrian, from a vehicle, or premises. Disposing of litter also means discarding or depositing litter or allowing litter to be blown from, or to fall from a premises or vehicle. The Local Nuisance and Litter Control Act 2016 (the Act) introduces specific classes for certain types of litter. The Local Nuisance & Litter Control Act 2016 (the Act) introduces specific classes for certain types of litter. **These are:**

General Litter:

Any solid or liquid domestic or commercial waste including, but not limited to, chewing gum, cigarettes or cigarette butts, food, beverage containers, packaging, furniture, green waste, personal items such as clothing and footwear, demolition material, building or construction material, vehicles or vehicle parts, farm or agricultural machinery or equipment, dead or diseased animals.

Note:

General litter can also be classified as building or construction material (including clay, concrete, rock, sand, soil or other mineralogical matter) when dragged on to a road by a vehicle's tyres following the departure from a building or construction site.

Class A Hazardous Litter:

Asbestos or things containing asbestos, any combination of class A hazardous litter and general litter.

Class B Hazardous Litter:

Live cigarettes or cigarette butts, used syringes, glass, any combination of class B hazardous litter and general litter.



What are the impacts of litter?

Litter can be harmful to people, animals, birds, marine-life and the environment, in many different ways.

- Broken glass, cans or syringes in public areas can result in human injury whilst food can attract flies and vermin, which carry disease. Items such as discarded fishing lines and plastics can maim or kill marine or bird life.
- Hazardous materials contained within litter and illegally dumped rubbish can leach into water sources, contaminate soil and pollute the air.
- 'Live' cigarette butts present a severe fire hazard risk.
- Litter can choke and damage waterways, block drains and cause flooding.
- Litter directly and indirectly affects the tourism industry.
- Litter can also affect the amenity of an area and reduce the ability of people to enjoy their outdoor environment by making outdoor activities such as barbeques, picnics and sports, unpleasant and unappealing.
- Littering costs the community, councils and state governments many thousands of dollars each year to clean up.

Littering from a vehicle

Illegal dumping and littering are frequently associated with vehicles and it's not uncommon to see cigarette butts and other litter being thrown or blown from vehicles.

The Act applies the onus on the owner of a vehicle for an offence committed in association with, or from, a vehicle. This operates in a similar manner to speed and red-light camera infringements whereby a vehicle owner has an opportunity to declare someone else to have been responsible for the offence although the onus remains upon that person to prove that fact.

This provision operates alongside public litter reporting as it will allow for an expiation, as discussed above, to be issued to the owner of a vehicle identified via license plate and other identifying attributes.



What are the penalties for littering?

Class A hazardous litter (any amount)

- Body corporate – Maximum penalty: \$250,000
- Natural person – Maximum penalty: \$120,000- or 2-years imprisonment

Class B hazardous litter up to 50 litres:

- Maximum penalty: \$10,000
- Expiation fee: \$500

Class B hazardous litter or general litter greater than 50 litres:

- Body corporate – Maximum penalty: \$60,000
- Natural person – Maximum penalty: \$30,000- or 6-months imprisonment
- Expiation fee: \$1,000

General litter up to 50 litres:

- Maximum penalty: \$5,000
- Expiation fee: \$210

Refusal to remove litter:

- Maximum penalty: \$5,000
- Expiation fee: \$210



Litter Abatement Notices

Abatement notices are important legislative instruments designed to secure compliance and have the scope of instructing a person or persons to comply with a wide range of directions. This means that Council can issue a Litter Abatement Notice to direct a person to undertake or do certain things such as:

- Discontinue or not commence an activity indefinitely or for a specified time
- That a person takes specified action
- Make good damage or clean up litter
- Furnish results or reports as requested
- Develop a plan of action to secure compliance

Note:

A plan of action – which could be applicable to an event or domestic, industrial or retail premises - will also need to include written proposals for ensuring litter clean up, prevention of further litter, keeping an area around a premises (no greater than 100m) litter free, or the repair or remediation required with respect to any damage caused by a contravention.

In certain circumstances – and subject to specific conditions – an authorised officer may orally issue an emergency notice if urgent action is required. Failure to comply with an abatement notice carries a significant court-imposed penalty fee or a minimum \$500 expiation fee. It is also an offence for someone to hinder or obstruct a person complying with an abatement notice.



Local Nuisance & Litter Control:

Noise

[What is a Noise Nuisance?](#)

Noise may become a nuisance if it intrudes into people's awareness or is heard against their wishes. An introduced noise that disturbs a person's everyday life or working environment can be very annoying or harmful, affecting their wellbeing.

Noise is generally accepted as being any sound that a person doesn't want to hear, with the result that it becomes a nuisance to an individual. Local noise nuisance can originate from a number of different residential, commercial or industrial sources such as:

- Equipment
- Power tools and other machinery (mowers, power tools, leaf blowers, compressors, impacting tools, mulchers)
- Living near commercial or industrial premises can create extra noise in the neighbourhood. Although some noise may be unavoidable, it can often be controlled using improved work practices and other mitigation construction or demolition works
- Air conditioning compressors
- Domestic pool pumps and spas
- Indoor venues / outdoor events

[Noise:](#)

Domestic Noise

There are several types of domestic noise:

- **Non-fixed domestic machine noise**

Non-fixed domestic machine noise comes from the use of machinery, tools or other equipment that are not fixed in position at a domestic premise. Examples of non-fixed domestic machines include lawn mowers, blower vacs power tools or other similar machinery. Non-fixed domestic machines such as lawnmowers and power tools can emit significant levels of noise but are commonly only used for short periods of time. These types of machines must only be used between:

- 8 am and 8 pm Monday to Saturday
or
- 9 am and 8 pm on a Sunday.

Fixed Domestic Machine Noise

- Fixed domestic machines are those that are installed and operated in a fixed position at domestic premises. Examples of a fixed domestic machine noise can include an air conditioner or a pool pump.
- Under the Environment Protection (Noise) Policy 2007 (the Policy) A fixed domestic machine must not emit a (continuous) noise level greater than 52 Db (A) between the hours of 7 am and 10 pm on any day.



Construction Noise

Certain activities on construction sites are noisy. Although some noise may be unavoidable, it can often be controlled using improved work practices and working within permitted times. Normal construction activity (for example: the use of power tools, machinery, hammering and sawing) is only permitted between the hours of 7 am and 7 pm Monday to Saturday. Construction noise is not permitted to occur on a Sunday or a public holiday. Construction activity related to roads, railways or other public infrastructure is exempt from the construction noise requirements in the Policy and may occur outside of the permitted times.



Industrial and non-domestic noise

The Policy controls the level of noise that should not be exceeded for people living near industrial and other non-domestic premises. Ideally, factories and houses should not be located near each other; however, when they are, both have to accept restrictions. Noise levels that should not be exceeded for both day and night have been set for premises operating in different areas. This allows a balance between the needs of industry and housing. Daytime noise levels are between the hours of 7am and 10pm on any day. Nighttime noise levels are between the hours of 10pm on any day to 7am on the next day

Animal noise

Complaints regarding noise from animals are investigated by the Community Safety Team. Nondomestic animals such as roosters, chickens, birds etc. can be considered a Local Nuisance if allowed to create excessive noise. Roosters are not recommended in urban areas, as houses are built too close and the noise is often unbearable for neighbours.

When considering a non-domestic animal such as chickens or birds consider the placement in proximity to your neighbours prior to placing any cage or shelter. You may wish to discuss this with your neighbour first to avoid any potential complaints.

Barking dogs are not considered Local Nuisance, however, are managed by the Dog and Cat Management Act 1995.

Complaints about excessive noise from animals can be directed to the Community Safety Team on 8405 6600.



How can noise nuisance be reduced or prevented?

There are many actions a person can take to reduce the risk or prevent noise nuisance altogether. Please see a few examples below:

- **Select a quieter alternative:** When buying equipment or appliances consider the expected noise level and where possible give some thought to purchasing the quietest option.
- **Location:** Where practical, locate noisy appliances as far away as possible from neighbours (especially away from sensitive areas like bedrooms). Avoid placing noisy equipment near noise reflective surfaces like walls or fences (especially corners) and use noise absorbing features (such as plants or baffles) to hide the equipment and reduce noise output.
- **Work:** Particularly when using power tools, work as far away as possible from neighbours if it's likely to be noisy. Remember that avoiding 'line of sight' between noisy equipment and other people will reduce the noise they hear.
- **Be a good neighbour:** When taking on a project that has the possibility of creating noise likely to disturb your neighbours, take time to talk to them first before you begin. Find out what concerns they may have and ask them for suggestions about solving any problems. In many cases an agreement can be reached that satisfies everyone's needs.

What is the law with regard to noise nuisance?

It is an offence under the *Local Nuisance and Litter Control Act 2016* (the Act) to cause a noise nuisance and penalties apply. If a matter is ongoing, Council can issue the person causing the nuisance with a Nuisance Abatement Notice, which specifies a certain period within which the offender must rectify the problem. Such Notices may also be issued orally in the first instance if the matter is considered severe enough. Council also has the power to expiate an offence by way of an on-the-spot fine. A Council's enforcement approach, such as issuing of expiations, warnings, requests to cease an activity, will depend on the circumstances and Council's Enforcement Policy.

If a nuisance is emanating from an industrial premise, it may be a site that is licensed by the Environment Protection Authority (EPA) and therefore not within the Council's jurisdiction. These matters can be referred directly to the EPA.

When should a noise nuisance be reported?

In the first instance a person should try and discuss concerns with the people (e.g. neighbours) from where the nuisance is emanating from, as they may not be aware that they are causing a nuisance. Concerns should be raised and discussed, and suggestions provided to resolve problems - simple solutions can often be found that satisfy everyone.

Generally, councils will only become involved if an issue within the community (e.g. between neighbours) cannot be resolved or if the nuisance is a broad-scale issue involving multiple parties.

How does Council handle Noise Complaints?

Investigation of local nuisance matters, and resolutions are not always straight forward and is heavily reliant on local residents assisting Council with the investigations.

A Nuisance Diary has been developed to be completed over a month. Council asks you to detail any, and all events which create the nuisance. Please include the date, the start and end time of the nuisance, a description/summary of the occurrence and detail any action taken by you in response to the nuisance (i.e. have to close all windows, place a towel along the bottom of a door, regularly need to clean windows/outside entertainment areas etc.).

It would also be appreciated if you can provide this diary to Council, along with any photographs, videos, or any other evidence of any kind of the nuisance.

To assist you to complete the diary, an extract from Schedule 1 to the Local Nuisance and Litter Control Act 2016, which outlines circumstances where litter, noise, odour, smoke, dust, fumes or aerosols may be regarded as a local nuisance is provided. In particular, the following matter which is declared by the Schedule to constitute local nuisance for the purposes of the Local Nuisance and Litter Control Act 2016.

The nuisance generated on premises, if an authorised officer forms the opinion that:

(a) The nuisance has travelled to neighbouring premises; and

(b) The nature, extent, smell or texture of the nuisance is such as to constitute an unreasonably interference with the enjoyment of the neighbouring premises by persons occupying those premises.

Unless the nuisance meets the thresholds specified in the Schedule, Council is unable to determine the nuisance generated from the site of the development is a local nuisance. Any information that you include in your diary should focus on the above matters prescribed in paragraphs (a) and (b), which will assist Council in this matter.

What does a council consider when investigating a noise nuisance?

There are many factors that can be taken into consideration when determining whether noise is a nuisance. These factors may include (but not limited to):

The day of the week and time at which the noise is occurring;

- The land uses existing in the vicinity of the noise source;
- Whether Development Plan provisions applicable to the noise source have been introduced or since changed since the current occupancy of the premises;
- The amount of noise being emitted;
- The duration and rate of emission and the noise characteristics, and qualities;
- The sensitivity of the environment into which the noise is being emitted and the impact that it has or may have; and
- Views of any other neighbours or complainants.

Council will investigate a Noise nuisance issue upon receiving a customer request. If the noise is found to be a nuisance, Council will take a graduated response to enforcement in line with Council's Enforcement and Compliance Policy.

Local Nuisance & Litter Control: Odour

Airborne pollution such as dust, smoke, odours, are collectively known as aerosols, any one of which (or a combination of more than one), can cause a local nuisance to the community. Furthermore, aerosols can do more than just interfere with normal daily activities – if severe enough, they have the potential to cause damage to property and impact negatively upon a person's health.

[What are odours and where do they come from?](#)

Odours are the properties of a substance that we are able to detect by smell and, because they can travel through the air over long distances, they have the potential to affect a large number of people within a community, cause significant impact on people's lives and adversely affect the amenity of an area.

Perceptions of odours can be very subjective. A smell may be pleasant to one person yet unpleasant to another, which can make the assessment of odours difficult to achieve. The degree to which odour nuisance affects people depends on the sensitivity of their sense of smell, the state of their health, previous experience with the odour, and their tolerance of the odours in question. Odours can emanate from a range of domestic and commercial/industrial sources.

Domestic sources of odours include:

- Insanitary conditions
- Dirty or poorly maintained rubbish bins and waste receptacles
- Uncovered compost heaps
- Rotting vegetation or food scraps (particularly seafood)
- Storage of petrochemicals (oils, degreasers, kerosene)



How can odour nuisance be reduced or mitigated?

From a commercial or industrial perspective, odour impacts can be mitigated by good design, good management, and by adequately separating odour sources from people or communities (often called sensitive receptors or receivers) which may be adversely affected by the odour.

Domestically, there are many ways to reduce the likelihood of producing an odour nuisance, such as:

- Minimise rubbish on a premise
- Ensure composting and mulching is done properly to avoid smells
- Clean waste bins regularly to get rid of any accumulated or smelly waste
- Ensure waste bins are collected regularly
- Place meat and seafood scraps in the freezer and wait until the night before bin collection day to put them in the bin
- Rinse containers before placing them in the bin to get rid of any remaining residues or substances that are likely to become putrid and cause odour
- Be careful when storing and using chemicals, paints and other products, which may cause strong and offensive odours.

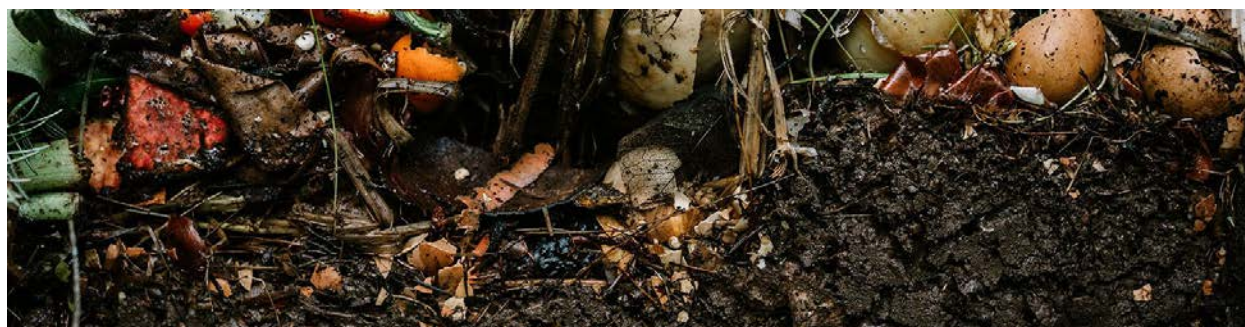
When undertaking activities, a person should consider and observe weather conditions as this can contribute to causing an odour nuisance. Other strategies to reduce likelihood of causing an odour nuisance include use of physical barriers, and the use of water (such as on fertilizer to quicken absorption into the topsoil).

What does a council consider when investigating an odour nuisance?

There are many factors that can be taken into consideration when determining whether an odour is a nuisance. These factors may include (but are not limited to):

- Frequency
- Intensity
- Duration
- Offensiveness
- Location

Generally the greater the frequency, intensity, duration, or offensiveness of an odour, the more likely it is to cause a nuisance.



When should I report an odour nuisance?

In the first instance a person should try and discuss concerns with the people (e.g. neighbours) from where the nuisance is emanating from, as they may not be aware that they are causing a nuisance. Concerns should be raised and discussed, and suggestions provided to resolve problems - simple solutions can often be found that satisfy everyone. Generally, Council will only become involved if an issue within the community (e.g. between neighbours) cannot be resolved or if the nuisance is a broad-scale issue involving multiple parties.

How does Council handle Odour Complaints?

Investigation of local nuisance matters, and resolutions are not always straight forward and is heavily reliant on local residents assisting Council with the investigations.

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It would also be appreciated if you can provide this diary to Council, along with any photographs, videos, or any other evidence of any kind of the nuisance.

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Local Nuisance & Litter Control: Smoke

Airborne pollution such as dust, mists, smoke, odours and fumes, are collectively known as aerosols, any one of which (or a combination of more than one), can cause local nuisance to neighbours and/or the wider community. Furthermore, aerosol nuisance can do more than just interfere with normal daily activities – if severe enough, it has the potential to cause damage to property and impact negatively upon a person's health.

[Smoke](#)

Smoke is a collection of tiny solid, liquid and gas particles and - depending upon the source - can contain hundreds of different chemicals and fumes. When complete combustion occurs, just water and the colourless, odourless gas carbon dioxide is produced as by-products. However, when there is incomplete combustion (i.e. when there is not enough oxygen to burn the fuel completely), smoke is produced.

Whilst smoke can be generated by a number of different sources and activities from within a community, the most common activities that lead to complaints are backyard burning, open wood fires and solid fuel (combustion) heaters.

[How can smoke nuisance be reduced or mitigated?](#)

Using wood-burning heaters incorrectly causes the emission of more pollutants and inefficiently uses up expensive fuel. There are some simple guidelines that will help you get the most efficient results from your heater:

- Use only a solid fuel heater that bears a compliance plate showing that it meets the Australian Standard for emissions (AS/NZS 4013:2014) and efficiency (AS/NZS 4012:2014) and that it is also installed according to Australian Standard (AS/NZS 2918:2001).
- Use only dry, seasoned timber to maximise heat release during combustion (these logs normally 'crack' when you hit one against the other as opposed to the dull 'thud' you get from freshly cut logs. Good wood storage – wood should be stacked loosely off the ground and stored under a roof in a ventilated area to keep it dry – ideally freshly cut wood should be stored for about 18 months before use so that it is properly seasoned.
- Use only kindling wood, paper or firelighters to start a fire and never use gasoline, kerosene, charcoal starters or propane torches.
- Add larger pieces of wood once a bed of red-hot coals has been established.

- Keep the wood heater air vents open for 20 mins after lighting the fire.
- Don't pack the fire and leave it on a low setting.
- Check the flue outside – if after 20 mins there is still smoke coming from the flue, the fuel or air vents may need adjusting to improve the fire.
- Hardwoods such as Mallee and Red Gum are preferable to softwoods such as pine. Softwoods contain more resins, which create smoke, odour and deposits in chimneys.
- Don't burn garbage, painted timber, treated timber (such as permapine) or particle board. Toxic fumes are released when burnt

[When should a smoke nuisance be reported?](#)

In the first instance a person should try and discuss concerns with the people (e.g. neighbours) from where the nuisance is emanating from, as they may not be aware that they are causing a nuisance. Concerns should be raised and discussed, and suggestions provided to resolve problems - simple solutions can often be found that satisfy everyone. Generally, councils will only become involved if an issue within the community (e.g. between neighbours) cannot be resolved or if the nuisance is a broadscale issue involving multiple parties.



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Local Nuisance & Litter Control: Dust/ Fumes & Aerosols

[Dust/ Fumes/Aerosols](#)

Airborne pollution such as dust, smoke, odours, are collectively known as aerosols, any one of which (or a combination of more than one), can cause a local nuisance to the community. Furthermore, aerosols can do more than just interfere with normal daily activities – if severe enough, they have the potential to cause damage to property and impact negatively upon a person's health. Aerosols, fumes, particles and smoke can cause a nuisance to residents and interfere with their normal daily activities. If severe enough, it can negatively affect a person's health and wellbeing. Aerosols, fumes, particles and smoke can come from numerous sources at a residential premise including aerosols from paint cans and other fine mists, fumes from petrol or diesel, dust from construction works and smoke or ash from burning off wastes. Smoke and fumes emitted from cooking are exempt from the nuisance legislation.

[What is dust and where does it come from?](#)

As well as being potentially unsightly and creating a requirement to clean items, dust nuisance may also cause irritation of the eyes, coughing, sneezing, hay-fever and asthma attacks.

Larger dust particles have a tendency to be trapped in the nose and mouth when breathed in although they are generally readily expelled by coughing or sneezing or sometimes even harmlessly swallowed. However, this is not necessarily the case with invisible and much smaller, fine particles. These particles are more likely to penetrate deeply into the lungs while ultrafine particles may be absorbed directly into the blood stream.

Many variables influence the nature of dust nuisance:

- Size of the particles
- Chemical make-up of the dust
- Duration of exposure

External and away from home dust nuisance can also affect the amenity of an area and reduce the ability of people to enjoy the outdoor environment.



- **Observe weather conditions** – If possible, consider the weather conditions before starting work that will generate dust. Try to schedule work when the weather is fine rather than in gusty or strong winds.
- **Retain vegetation** – Retain as much vegetation on a site as possible. Grass can act as dust barriers to neighbouring properties. Even low or small amounts of vegetation can significantly lower wind speed and reduce the amount of dust leaving a site.
- **Vehicles** – Controlling vehicle speeds and covering truck loads will reduce dust on local roads.
- **Physical Barriers** – Physical barriers such as fences can be very effective when used properly and material such as shade cloth can be erected as a dust fence around a commercial work area.
- **Water** – Spraying water onto topsoil can be very effective in reducing dust from commercial or private residences. Equally, spraying water onto poorly maintained lawns will also reduce the amount of dust that is generated.
- **Hydromulch products** – For larger areas, product such as hydromulch is also useful for reducing dust generation. Hydromulch consists of recycled pulp newspaper that has been mixed with water and can be sprayed onto the ground to form a protective layer.



When should I report dust nuisance?

In the first instance a person should try and discuss concerns with the people (e.g. neighbours) from where the nuisance is emanating from, as they may not be aware that they are causing a nuisance. Concerns should be raised and discussed, and suggestions provided to resolve problems - simple solutions can often be found that satisfy everyone.

Generally, councils will only become involved if an issue within the community (e.g. between neighbours) cannot be resolved or if the nuisance is a broad-scale issue involving multiple parties.

What does a Council consider when investigating a dust nuisance?

An authorised officer when determining whether dust is a nuisance must, in forming their opinion, take into account whether:

- The dust has travelled to neighbouring premises; and
- The nature, extent, smell, density or texture of the dust is such as to constitute an unreasonable interference with the enjoyment of the neighbouring premises by persons occupying those premises.



How does Council handle Dust Complaints?

Investigation of local nuisance matters, and resolutions are not always straight forward and is heavily reliant on local residents assisting Council with the investigations.

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More Information

[What is not a local nuisance?](#)

The Act specifies what can constitute a local nuisance and anything outside of this, Council can't deal with, here are a few examples:

- People noise including music and voices from domestic premises – SAPOL investigate such complaints tel: 131 444
- Any activity from liquor licensed premises – Liquor Licensing Authority investigate such complaints tel: 131 882
- Noise from vehicles (other than vehicles operating within, or entering or leaving, business premises)
- Activities controlled by an Environment Protection Authority SA licence – EPA tel: 8204 2004

[What are a person's obligations with regard to local nuisance?](#)

A person's activities should not unreasonably interfere with the well-being or enjoyment of an area by others. This includes not only the indoor and outdoor spaces of a person's own property but public and community areas such as parks, other places of public recreation, and commercial precincts.

The community should all be mindful of the degree of potential local nuisance that can be generated by things such as unwarranted smoke, excessive noise, nuisance dust or unkempt properties and always seek to minimise such impacts as much as possible. Discussing any concerns with your neighbour/person causing the alleged nuisance may be all that is needed, but if further advice is required or you wish to lodge a complaint Council can be contacted on 8405 6600.

[Making of Exemptions](#)

Council can grant an exemption from local nuisance-causing activities upon application. Exemptions may be reasonable for short-term activities - such as festivals, events or major construction activities - where some level of noise, dust, odour or other local nuisance is likely to be unavoidable.

Applications must, however, be accompanied by a nuisance management plan describing the steps that will be taken to prevent, minimise or address any adverse effects on the amenity value of the area concerned and also describing the exceptional circumstances that exist to justify the granting of an exemption.

[More Information](#)

This fact sheet is one of a range designed to increase your awareness and understanding of the requirements of the Local Nuisance and Litter Control Act 2016. Please see other fact sheets for further information about the Act.

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