

Victoria Police Manual – Procedures and Guidelines

Noise complaints

Source Policy

These Procedures and Guidelines support and must be read in conjunction with the following:

- [Environment Protection Act 1970](#)
- [Summary Offences Act 1966](#)
- VPMP Public order

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **Professional and ethical standards** to inform the decisions they make to support interpretation of Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. Noise complaints

1.1 *Establishing if there is a noise offence*

Early intervention in noise complaints may prevent reattendance at the premises and possible behavioural offences:

- attend the noise complaint and attempt to speak to the owner/leasee or resident
- determine if the noise is unreasonable
- advise them of the nature of the complaint and what actions to take to resolve the complaint.

1.2 **Definition of noise**

- To determine if there is a complaint of unreasonable noise, consider the definition under s.48A(2), *Environment Protection Act 1970*:

a residential premises, for the purpose of unreasonable noise provisions, includes:

- (a) any land or building used for or in connection with a residential premises; and
 - (b) any outbuilding situated on land used in connection with any residential premises; and
 - (c) any land upon which residential premises is under construction.
- To assess noise for the purposes of giving a direction or advice to the noise-maker, members can listen from any location to infer the likely impact. For example, when members drive past and “reasonably suspect” night-time party noise is unreasonable (s.48A(6)) because it is loud and likely to disturb people.
 - To determine whether it is unreasonable under s.48A(5) and the Regulations, members must assess the audibility of the noise in the habitable room (e.g. bedroom) of the affected person(s), with either the window open or closed.
 - Many noises, in particular low frequency (bass) noise from stereos, are often not audible from the street or a patrol car, but may still impact the affected person in their home. Bass noise can be ‘trapped’ in rooms and is often worse inside, when lying down in bed or when near the corners of a room. Other examples of when the residential noise provisions apply are:
 - construction of a home or apartments, or land preparation works for residential development (e.g. subdividing a lot)
 - a tradesperson parking their heavy vehicle on the street outside their home and warming it up for extended periods in the early morning (in prohibited times)
 - domestic car maintenance
 - parties/entertaining carried out or spilling onto the nature strip or road (used “as an extension” of the home)
 - residential rural blocks where private recreational motor cycling is carried out.

1.3 **Available action**

- Once a noise complaint is substantiated, under s.48A(6), directions to abate unreasonable noise and prevent recurrence can be given to a person suspected of committing the offence; or any person apparently in charge of the premises.

- There is a power of entry under the act to investigate the noise complaint. For example, where there is a group of noisy people talking/shouting at a party, a direction can be given to the individuals or the party host. A direction remains in force for the period specified by the direction not exceeding 72 hours after the direction is given. A penalty notice can be issued for a failure to follow a direction.
- Regardless of whether a direction is given, members are able to take additional action for unreasonable noise by laying a charge under s.48A(3) by summons. This approach may be useful for recurring noise.
- The complainant or police may consider notifying DHS if the premises are public housing or the landlord/real estate agent if the premises are a rental property.
- For further assistance with an ongoing noise complaint, contact the Environment Protection Agency.

1.4 *Licensed premises*

Refer to the **Liquor Licensing Reference Guide** for guidance.

2. Parties and gatecrashing

2.1 *Taking action in relation to out of control parties*

- Out of control parties are essentially noise complaints coupled with anti social behaviour. This behaviour has come to the attention of police because it has infringed upon the rights/enjoyment of other members of the public.
- The aim of police when attending to these incidents is to restore public order. In addition to the noise considerations listed above, other police action that can assist in restoring public order are:
 - a visible police presence
 - talking to the persons in the public area and requesting their names and addresses (the power to request names is under s456aa, Crimes Act 1958)
 - request they move on or return to the party premises
 - arrange transport such as taxis to help disperse the crowd
 - use additional police resources to assist such as Dog Squad, Highway Patrol etc.
 - talk to the party host about either assisting in controlling the party or ending the party early
 - consider the use of penalty notices for offences such as 'offensive behaviour', 'wilful damage' or breach of council by laws as a mechanism to restoring public order.

- When responding to an out of control parties, the 10 safety principles apply as if it were any other incident (see **VPMP Operational safety and equipment**). However, there is a heightened risk of dealing with intoxicated persons and the possibility of projectiles being thrown at police. If encountering a large number of patrons, ensure police members do not become separated or isolated.

2.2 Gatecrashers

Gatecrashers are unwanted party guests. They have no legitimate licence to be at the premises. Depending on whether the function is on private property or in a public place, consideration should be given to the offence of wilful trespass or wilfully enter a private place without authority.

2.3 Other applicable powers and offences

- A police member may request a person to state their name and address under the provisions of the *Crimes Act*. This will assist in determining identity for any public order offences that may occur.
- Breach of the peace provisions, arrest powers and search powers may be applicable in dealing with some circumstances, see **VPMP Arrest and apprehension** and **VPMP Search of persons** for further guidance.
- Offences that may be appropriate in dealing with out of control parties and gate crashes including
 - riot
 - rout
 - affray
 - hinder
 - obstruct
 - public nuisance
 - breach of peace
 - trespass
 - wilfully enter a private place without authority
 - underage alcohol consumption
 - drunk
 - local bylaws re open alcohol /dry areas etc

Further Advice and Information

For further advice and assistance regarding these Procedures and Guidelines, contact your supervisor or, if considering charges, your local prosecutions office.

Update history

Date of first issue	22/2/10	
Date updated	Summary of change	Force File number
27/05/13	Amendment to the time period a direction to abate unreasonable noise may apply	FF-075137