

Local Nuisance and Litter Control Act 2016

Factsheet 22 – Insanitary Conditions

The *Local Nuisance and Litter Control Act 2016* (the Act) was developed to support and enhance local amenity values by strengthening local nuisance and litter management services within South Australian communities. The Act provides new legislative tools to deal with unsightly conditions in the community.

What is Local Nuisance?

Local nuisance is described in the Act as being any adverse impact on the amenity value of an area, which unreasonably interferes with, or is likely to unreasonably interfere with, the enjoyment of that area by people in that area. Insanitary conditions can be a cause of local nuisance in the community.

What is Amenity?

Amenity value is defined in the Act as including any quality or condition of an area that is conducive to its enjoyment. This can refer to a wide range of qualities, characteristics and attributes about a place or area that people value and which contributes to their experience of a good quality of life. Whilst the amenity values that individuals seek to appreciate vary according to each person's own principles, there is a wide range of common ideals that are generally accepted as being key elements relative to the amenity value of a community.

What are insanitary conditions?

Insanitary conditions are conditions that may or are interfering with other people's enjoyment of an area. This could be due to vermin activity, accumulated rubbish either indoors or outdoors, poorly kept or deceased animals, or an absence of proper or adequate sanitary facilities.

What are the impacts of insanitary conditions?

Insanitary conditions can have a wide range of impacts particularly if there are odours being emitted from the premises or there is a risk of pest or rodent infestation. These type of conditions can quickly affect nearby residences, particularly where pest or rodent infestation is concerned.

How does a council determine if premises have insanitary conditions?

A council will refer to Section 17 of the Act to assist in determining if premises have insanitary conditions. If there is reasonable belief that this is the case, then an authorised officer can declare that insanitary conditions exist – and hence, local nuisance is being caused. In making their assessment, an authorised officer will consider if:

- the premises are so filthy or neglected that there is a risk of infestation by rodents or other pests; or
- offensive material or odours are emitted from the premises.

What is the law with regard to insanitary conditions?

It is an offence under the Act to cause local nuisance by way of insanitary conditions and penalties can apply. If a matter is considered serious enough, a council can issue the person causing the nuisance with a Nuisance Abatement Notice, which will specify a certain period within which the offender must rectify the problem. Such notices may also be issued orally in the first instance if a matter is considered severe. A council can also 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 the council's enforcement policy.

What are the penalties for causing local nuisance by way of insanitary conditions?

A person who carries on an activity intentionally or recklessly and with the knowledge that local nuisance will result is guilty of an offence:

- Body corporate - Maximum penalty: \$60,000
- Natural person - Maximum penalty: \$30,000

A person who carries on an activity that results in local nuisance is guilty of an offence:

- Body corporate - Maximum penalty: \$20,000
- Natural person - Maximum penalty: \$10,000
- Expiation fee: \$500

Penalties may also be applied in circumstances where a person refuses to comply with the direction of an authorised officer or provides a false report about a matter.

When should insanitary conditions 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.

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.

Disclaimer

This publication is a guide only and will not necessarily provide adequate information relevant to every situation. Whilst it seeks to explain your possible obligations in a helpful and accessible way, it is likely that some detail may not be captured. It is important, therefore, that where necessary you make your own determination as to whether you should seek legal advice.