

# Local Nuisance and Litter Control Act 2016

## Factsheet 5 – Unsightly 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.

Unsightly conditions are frequently 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 unsightly conditions?

Schedule 1 of the Act defines unsightly conditions as:

- conditions on premises involving—
  - excessive or unconstrained rubbish, waste or vegetation; or
  - stockpiled, excessive or unconstrained disused or derelict items or material that a reasonable person would consider to be rubbish or waste; or
  - graffiti (other than authorised graffiti) that has been left on the premises for more than 28 days (or 7 days for offensive graffiti); or
  - conditions involving a building on the premises having been left partially demolished or in a state of disrepair, dilapidation or damage.
- where, in the opinion of an authorised officer, the conditions have had an adverse effect on the amenity value of the area or caused the premises to be significantly out of conformity with the general appearance of neighbouring premises.

### What are the impacts of unsightly conditions?

Unsightly conditions can adversely affect the amenity value of an area particularly those qualities, characteristics and attributes about a place or area that people value and which contributes to their enjoyment of a place and their experience of a good quality of life within their own community.

## How does a council determine if premises have unsightly conditions?

A council will refer to Schedule 1 of the Act to assist in determining if a premises has unsightly conditions. If there is reasonable belief that this is the case, then an authorised officer can declare that unsightly conditions exist and hence, local nuisance is being caused.

## What is the law with regard to unsightly conditions?

It is an offence under the Act to cause local nuisance by way of unsightly 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 unsightly 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 unsightly 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. 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.*