

# Aurora Tower - Procedures for Noise/Behaviour Complaints

## 1. Lodging a noise complaint

When residents are confronted with an unacceptable noise/behaviour problem from a neighbouring apartment, they should lodge a noise complaint form via the Aurora Tower website [www.theauroratawer.com.au](http://www.theauroratawer.com.au) . In this way, there is a formal record of the complaint and any action or instructions provided by building management staff or a security guard in response to the complaint.

Lodging an on-line complaint becomes documented evidence that may be used to support a subsequent formal complaint (provided the source and nature of the complaint has been confirmed).

## 2. Responsibility for dealing with unacceptable noise/behaviour complaints

It is important to understand that when lodging a noise/behaviour complaint there are different response procedures, depending on who is responsible for the apartment:

- **For Oaks managed apartments.** Oaks have established procedures for dealing with their guests in the event of unacceptable noise/behaviour problems, including the issuing of warning notices and eviction. Following receipt of a complaint, Oaks' staff are able to contact the guest(s) by phone or dispatch a security guard (if one is on the premises) to advise that a noise complaint has been received. Provided the complaint is verified, a warning will be issued. Where there are repeat occurrences or where unacceptable behaviour is identified, an eviction may be ordered.
- **For apartments other than those managed by Oaks.** Building Management staff have limited authority to intervene or manage unacceptable noise/behaviour in these apartments. They will normally send a security guard (if one is available) to notify the occupants of a noise complaint in the first instance.

If the occupants fail to respond, **the complainant has the option to call the police** and request their assistance. (Building Management staff will only call the police if the incident involves common area property. Police intervention will depend on their assessment of the seriousness of the offence). The complainant must be responsible for explaining the nature of their complaint to the police, who will report back to the complainant after their investigation. Details of any police report should be retained as evidence to support any subsequent action.

### 3. Body Corporate letters to owners

The Body Corporate sends letters to the owners(s) of apartments that have been the subject of a genuine noise complaint (where there is confirmation that the occupants of an apartment have been responsible for unacceptable noise/behaviour) to ensure that the owner(s) of the offending apartment are aware of problems/issues associated with their apartment. It is then up to the owner to decide what steps need to be taken to address the problem.

The Body Corporate has no ability to progress the matter further, other than issuing further noise complaint letters, unless it receives an application to issue a Contravention of By-Law (Breach Notice) by the complainant.

### 4. Options for pursuing action against owners/occupiers

Where there is a recurrence of unacceptable noise/behaviour associated with a particular apartment, a complainant has two options for pursuing action to address the problem:

- **Contact the owner and/or agent of the apartment** to explain the nature and frequency of the problem and to request the owner/agent to address the problem. This is generally the quickest and simplest option. These details can be obtained by emailing [secretary@theauratower.com.au](mailto:secretary@theauratower.com.au).
- **Seek to have the Body Corporate issue a Contravention of By-Law (Breach Notice)** against the owner/occupant of the offending apartment. This requires the complainant to Lodge a BCCM Form 1 (Notice to Body Corporate of a Contravention of a Body Corporate By-Law) with the Body Corporate Manager, Ernst Body Corporate Management (EBCM).

This is a more onerous and time-consuming process, because the complainant must first ensure they have adequate records and evidence of the unacceptable noise/behaviour to support their application for a Contravention Notice to be issued. As noncompliance by the owner of the offending apartment with a Contravention Notice must be resolved via Conciliation, Adjudication or in the Magistrates Court, clear documented evidence must be presented to support the complaint.

Further, when submitting the BCCM Form 1, **the complainant must demonstrate that they have attempted to resolve the matter with the other party**. The complainant must be able to demonstrate that a concerted effort was made before lodging the BCCM Form 1 with EBCM.

If the Committee is satisfied that there is sufficient evidence of a By-Law Breach, and that the complainant has attempted to resolve the problem with the other party, the Body Corporate Committee may issue a Contravention Notice on BCCM Form 10 or 11. The Contravention Notice will include details of the complaint, set a nominated time period in which to fix the problem, and explain that if the problem is not fixed, that the Body Corporate may apply for Conciliation to enforce the By-Law.

If the Committee decides not to issue the Contravention Notice within 14 days, then the complainant may apply for Conciliation directly against the other party. **However, the complainant will be required to demonstrate that they have made a genuine attempt to resolve the matter with the other party before Conciliation will be initiated.**

If the owner of the offending apartment does not comply with the Contravention Notice, the Body Corporate can lodge a dispute resolution application with the Office of the Commissioner for Body Corporate. The Office of the Commissioner will then schedule a Conciliation session involving the complainant and the other party.

If the Conciliation is unsuccessful, the Commissioner may refer the matter for Adjudication. The Adjudication process can take around 3 months and if the Adjudicator makes an Order the other party will have to comply with the Order. However, if they don't comply, the Body Corporate can seek to enforce the Adjudicator's Order in the Magistrates Court.

Generally, the quickest and most effective approach for dealing with an unacceptable noise/behaviour issue is for the affected resident to initiate contact with the owner(s) of the other apartment, to ensure that the owner(s) are aware of the problem, and to give them the opportunity to address the problem without getting involved in a sometimes long and frustrating Contravention Notice process.

Aurora Tower Body Corporate Committee

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