

Breach of Seasonal Licence Agreements with Sporting Clubs

Policy Number:	2012/29	Directorate:	Community Services
Approval by:	Council	Responsible Officer:	Team Leader Leisure Development
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1. Purpose

The purpose of this Policy is:

- To promote compliance with Council’s Seasonal Licence Agreements, Good Neighbour Guidelines and the Good Sports Program;
- To provide a clear and consistent process to assist staff managing breaches of Council’s Seasonal Licence Agreements and to limit the impact these breaches have on Council, local residents and staff; and
- To ensure that sporting club committee members and their members understand the consequences of breaching seasonal licence agreements with Council. This includes the impact which this may have on Councils allocation of sporting reserves and pavilions to clubs for use, in accordance with the Sporting Reserve Facility Usage Policy.

The types of matters covered by this policy include, but are not limited to:

- public disturbances;
- conduct at Council reserves and pavilions;
- damage to Council property; and
- additional costs incurred by Council.

2. Context

All sporting clubs entering into Seasonal Licence Agreements with Council are required to comply with the terms of those agreements and to behave in a manner consistent with Council’s Good Neighbour Guidelines and the Good Sports Program.

Routine updates to all Councillors outlining a summary of breach notices issued to sporting clubs which have occurred throughout the season will be provided at the conclusion of each of the summer/winter seasons.

3. Scope & Application

This policy applies to all sporting clubs and community groups within the City of Knox which have entered into a Seasonal Licence Agreement for use of Council owned assets and infrastructure. This includes all facilities owned and/or managed by Council.

This policy will not apply to:

- sporting clubs and associations placed on long-term lease and licence agreements; or
- other user groups which are not sporting clubs that have entered into licence agreements or other occupancy arrangements more generally.

4. References

4.1 Community & Council Plan 2017-2021

- Goal 1: We value our natural and built environment
- Goal 6: We are healthy, happy, and well
- Goal 7: We are inclusive, feel a sense of belonging, and value our identity
- Goal 8: We have confidence in decision making

4.2 Relevant Legislation

- Local Government Act 1989 – Conflict and Interest Provisions
- Liquor Control Reform Act 1998

4.3 Charter of Human Rights

- This policy has been assessed against and complies with the charter of Human Rights

4.4 Related Council Policies

- Advertising, Sponsorship and Promotional Signs on Council Land
- Sporting Reserve Facility Usage
- Sporting Reserve & Facility Development Guidelines
- Casual Use of Active Reserve

4.5 Related Council Documents

- Seasonal Licence Agreement
- Seasonal Changeover Guidelines
- Fees & Charges

4.6 Related Council Plans

- Knox Leisure Plan 2018-2024
- Community Safety Plan 2017-2021
- Community Health & Wellbeing Strategy 2017-2021
- Open Space Asset Management Plan
- Open Space Plan 2012-22
- The Knox Integrated City Strategy 2017-2021

5. Definitions

Breach of Licence Agreement

Means:

- a failure to comply with a term of the Seasonal Licence Agreement; or
- an action or omission which is contrary to an obligation, contained in a sporting club’s Seasonal Licence Agreement.

Council

Knox City Council, whether constituted before or after the commencement of this Policy.

Council’s Leisure Facilities

Facilities managed by Knox City Council, including sports fields, courts and pavilions.

Good Neighbour Guidelines

The guidelines developed to encourage good relations between occupants of Council facilities and nearby residents.

Good Sports Program	An initiative by the Australian Drug Foundation to develop safer and healthier communities. The program helps sporting clubs manage alcohol responsibly and reduce alcohol related problems.
Seasonal Licence Agreement	A 6 month Winter/Summer or 12 month agreement which outlines the roles and responsibilities of each respective sporting club which utilises a Council facility.
Seasonal Licence Fee	Is a figure charged by Council on a seasonal/annual basis to cover costs associated with maintenance works. The total figure consists of three elements – sports field fees, pavilion fees and team fees.
Sporting Club	Any sporting club which enters into a Seasonal Licence Agreement with Council.

6. Council Policy

Council is committed to ensuring that tenants of Council facilities abide by their contractual obligations including the Seasonal Licence Agreement, Good Neighbour Guidelines and the Good Sports Program.

Council will hold sporting clubs accountable for the actions and behaviour of its respective members, officials and spectators in accordance with the terms of the Seasonal Licence Agreement.

6.1 Process

A sporting club is considered to be in breach of term/s of the Seasonal Licence Agreement in the event that the sporting club:

- fails to comply with a term of the Seasonal Licence Agreement; or
- undertakes an action or omission which is contrary to an obligation, contained in the Seasonal Licence Agreement.

Sporting clubs may be in breach of their licence agreement due to, but not limited to, the following circumstances:

- Exceeding pavilion hours of use
- Unapproved usage of Council facilities
- Unapproved works to a Council facility
- Required behaviour of user groups respective members, officials and spectators as listed in Seasonal Licence Agreements
- Breach of Liquor Licence Agreement
- Gambling within Council facilities
- Smoking within Council facilities
- Late submission of Seasonal Licence Application
- Late submission of Seasonal Changeover Checklist
- Sub-letting Council facilities without Council approval
- Failure to adequately clean Council facilities
- Inappropriate storage of equipment within Council facilities
- Displaying of non-conforming signage
- Excessive litter surrounding Council facilities
- Late payment of Seasonal Licence Fees
- Changing locks within a Council facility without prior approval
- Failure to 'Test & Tag' electrical equipment

6.2 Assessing whether a breach of the Seasonal Licence Agreement has occurred

Once a report of concern or complaint has been identified, Council Officers will undertake the following process:

- 6.2.1 Council’s Leisure Services Officer will assess the concern or complaint against the terms and conditions listed in the Seasonal Licence Agreement.
- 6.2.2 The Ward Councillor will be kept informed by the Coordinator Leisure Services. The Ward Councillor will be invited to be included in discussions held with the sporting club.
- 6.2.3 Council’s Coordinator Leisure Services will arrange a meeting with the sporting club.
- 6.2.4 An assessment will be undertaken on a case-by-case basis to determine whether a breach of the Seasonal Licence Agreement has occurred.

6.3 Classifying the Severity of the Breach and the allocation of penalty points

Once it has been determined that a breach of the Seasonal Licence Agreement has occurred, an assessment will be undertaken to determine the severity of the breach, and the penalty points applicable.

In determining the severity of the breach, consideration will be given to:

- The impact on Knox City Council and its residents. This may include disturbances, disruption and the impact on reputation ; and
- The financial cost to Knox City Council to rectify the impact of the breach.

Council Officers may use the matrix for the classification of the severity of a breach of the Licence Agreement in making this determination.

Council reserves the right to assess the severity of the breach on a case-by-case basis without use of the matrix for the classification of the severity of a breach to the Seasonal Licence Agreement should the breach fall outside what can be assessed using the matrix.

Table 1. Matrix for the classification of the severity of a breach to the licence agreement

		Impact on Council & Residents		
		Low	Medium	High
Financial cost to Council	Low	Level 1	Level 2	Level 3
	Medium	Level 2	Level 3	Level 4
	High	Level 3	Level 4	Level 5

Penalty points will be allocated to the breach using Table 2: Assessment tool to allocate penalty points. The assessment tool will consider:

- The breach level; and
- The number of breaches allocated to the Sporting Club during the previous 12 months.

Table 2: Assessment tool to allocate penalty points

	Breach Level					
Breach Number over the preceding 12 month period	1	2	3	4	5	
	1	1 Point	2 Points	3 Points	4 Points	5 Points
	2	2 Points	4 Points	6 Points	8 Points	10 Points
	3	3 Points	6 Points	9 Points	12 Points	15 Points
	4	4 Points	8 Points	12 Points	16 Points	20 Points

6.4 Accumulation of Penalty Points

Penalties may be applied should a Sporting Club accumulate the following total points:

Penalty Points	
1 Point – 4 Points	Meet with the sporting club to discuss breach.
5 Points - 9 Points	Meet with the sporting club to discuss breach. Requirement of a bond totalling 10% of their seasonal licence fees issued by Council. This bond will be returned to the sporting club at the time its cumulative points total drops below five points.
10 Points - 14 Points	Meet with the sporting club to discuss breach. Loss of bond and reported to the sporting club’s respective governing body and various other sport and recreation or relevant regulatory bodies (i.e. AFL Victoria, Good Sports, Liquor Licensing Victoria, VicSport etc).
15 Points - 19 Points	Meet with the sporting club to discuss breach. Ineligible for funding opportunities through Council for the next 12 month period (i.e. Sport & Recreation Victoria, Minor Grants, Community Grants etc).
20 Points or Greater	Meet with sporting club to discuss breach. The sporting club must attend the meeting with Council Officers to show cause as to why the seasonal licence should not be terminated. Review of Seasonal Licence Agreement – This may include by way of example: <ul style="list-style-type: none"> • termination of the Seasonal Licence Agreement; or • entering into a new Seasonal Licence Agreement with the sporting club which contains one or more of the conditions outlined in this Policy.

* Note: Should a sporting club accumulate additional penalty points, the penalties applied at all previous levels will remain.

Where a breach has been substantiated:

- the penalty points for each separate breach will be recorded and a cumulative rolling total will be kept; and
- the points attributed to each separate breach will expire after 12 months and the cumulative total will be adjusted accordingly.

6.5 Bond Calculation

Where a bond is imposed, it shall be 10% of the sporting club's Seasonal Licence Fee (excluding fees associated with turf wickets).

Should this formula result in an amount below \$100 inc GST, a minimum bond amount of \$100 will be applied.

6.6 Review of Seasonal Licence Agreement

Council reserves all rights not to renew a sporting club's Seasonal Licence Agreement for the following season or licence period and Council will consider breaches by sporting clubs in making this determination.

If Council decides to issue a new seasonal or annual licence agreement for the following season or licence period, Council may do so subject to any conditions it considers necessary, which may include one or more of the following conditions (by way of example):

- An additional bond of \$1,500 inc GST being required.
- Usage of Council facilities being restricted to only match and training needs, therefore excluding facility use for social functions.
- Removal of access to Council facilities for pre-season training.
- Introduction of a good behaviour contract for the following licence period, where any breach may evoke a loss of bond or see the sporting club ineligible for funding opportunities for an additional 24 months. Should the bond be applied by Council due to a breach which results in damage to a Council facility, the bond will not act as a substitute for a sporting club's contribution towards the costs to rectify the issue, which will be required by Council separately.
- Loss of tenancy and loss of access to all Council facilities.

6.7 Appeal Process

The sporting club will be given the opportunity to respond to the assessment outcome. Responses must be in writing via post or email within 7 days, marked to the attention of the Coordinator Leisure Services.

Upon receiving a request to review the assessment outcome, a review panel consisting of three Council Officers will be assembled to review and re-assess the breach. This panel will be chaired by the either Director of Community Services and will include a minimum of one other Director or Manager from another department within Knox City Council and one Councillor (other than the ward Councillor) and will not include any officers who were involved in the original decision making process. All matters associated with potential apprehended bias must be considered by Council in forming any review panel.

The sporting club will have an opportunity to send a nominated club executive or committee member from the sporting club to present to the review panel, in order to provide the sporting club's version of events.

The sporting club will be notified of the outcome of the appeal.

7. Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.