

Juveniles, Responsible Adults and 'In Loco parentis'

Infringements are from time to time issued by WA Police to licensees if juveniles are found on licensed premises when unaccompanied by a responsible adult, not on the premises for the purpose of obtaining a meal nor other lawful purpose such as working there as a cleaner. Indeed, from time to time, licensees have been prosecuted for such breaches of the law.

Whilst juveniles are themselves being issued with infringements more often, the greater number of infringements are being issued to licensees who breach this aspect of the Liquor Control Act.

To dispute such an infringement, the licensee bears the onus to prove that the juvenile was accompanied by a responsible adult on the licensed premises or otherwise on the premises legally. This is not always feasible or practical, especially if the juvenile concerned proves difficult to locate.

A person is deemed however under the Act to be a 'responsible adult' if that person is a parent, step-parent, spouse, de facto partner or legal guardian of the juvenile, or other person *'in loco parentis'* to the juvenile. The words *'in loco parentis'*, are not defined in the Act. The usual translation of the words is *'in place of a parent'*. Another application of the words is to mean *'a person who looks after another's child for and on behalf of the parent and acts as substitute parent and assumes responsibility for providing for the child in the parents absence'*.

A person *'in loco parentis'* could include a grandparent, an aunt or uncle, or a foster parent or any other person who has day to day responsibility for a particular juvenile. While an 18/19 year old sister of a juvenile has been held not to be a responsible adult, a mature-age sibling with a financial and day to day responsibility for a juvenile brother or sister could be *'in loco parentis'*.

'In loco parentis' could also include, for instance, a middle-aged neighbour who assumes and exercises responsibility when taking a neighbour's juvenile son as well as their own juvenile child to licensed premises: a teacher or parent taking a class of juveniles on an outing to a licensed sports venue such as a tenpin bowling centre or an adult sporting coach taking a sports team of juveniles to a licensed sporting venue such as the WACA or Subiaco Oval.

It would be overly rigid and an incorrect application of the Act for WA Police to issue infringements in respect of juveniles on licensed premises because they consider that the only permissible responsible adults are the specified parents, step-parents, spouses, de facto partners or legal guardians of juveniles.

If in doubt as to the validity or consequences of an infringement notice issued in respect of juveniles at licensed premises, licensees may wish to seek legal advice.