

ENFORCEMENT – LICENSING ACT 2003

1. Introduction

- 1.1 The purpose of this report is to inform the committee about enforcement and compliance actions, undertaken by the Licensing Enforcement Officer from November 2008 to 31 December 2010, relating to the Licensing Act 2003.

2. Background

- 2.1 Local Authorities have a responsibility, and in many cases a duty, to enforce the law in relation to the various licences, permits or consents that they issue.
- 2.2 Compliance and enforcement are essential components of any regulatory and licensing regime, to ensure public protection and confidence. Licensing Authorities have a wide range of options available when dealing with non-compliance or offences. This can range from advice, various warning letters and action plans, through to prosecutions. What is appropriate depends on the individual circumstances of the case.

3. Governance of licensed premises

- 3.1 There are about 650 licensed premises within the New Forest District area that undertake licensable activities. The governance work (compliance & enforcement actions) of the Licensing Enforcement Officer in relation to the Licensing Act 2003, can be separated into 3 functions. These being:
- Routine risk-based scheduled inspection;
 - Investigations arising from complaints and other sources;
 - Annual fee payment defaulters.
- 3.2 **Inspections** – are undertaken based on the principle of risk assessment, in line with the recommendations of the Hampton Report. These visits are essential in ensuring that premises licence or club certificate holders are meeting their obligations under the Act. Likewise they are very useful in establishing 'rapport' with the trade. The methodology is based on the principle of an initial visit to all licensed premises whereupon a risk rating score of the premises is undertaken. This score will inform the frequency of subsequent visits thereafter i.e. every one, two, three, four or five years. During these visits where matters of concern or non-compliance are found the appropriate remedial advice will be given and the Licensing Enforcement Officer will ensure the relevant compliance. Examples of the main concerns recorded are shown in the table below, at paragraph 3.5.
- 3.3 **Investigations** – are undertaken when matters are reported or information is discovered relating to unauthorised licensable activities, breaches of licensing conditions or where it is believed that the licensing objectives are being

compromised. A table detailing these actions and outcomes is shown in paragraph 3.8.

3.4 **Payment** – defaulters are also visited if they fail to meet their financial responsibilities after 2 reminders asking for the payment of the annual fee have been sent out by the licensing office. To date civil debt proceedings have only been enacted against one premises licence holder, which was prior to the appointment of a licensing enforcement officer. It is important to prioritise payment defaulters as it is usually a good indicator that there may be other problems that could undermine the licensing objectives occurring at these premises. It is widely agreed by licensing authorities that a major failure of the Act is that the licence or certificate cannot be revoked as a consequence of the non payment of the annual licensing fee.

3.5 **Facts & Figures (1)** - the table below details the governance work undertaken by licensing enforcement since November 2008 to end 2010:

GOVERNANCE	2008	2009	2010
Total – All Visits	54	325	251
Type			
Inspections & findings summary	41	263	142
Incorrect licence details	9	39	5
Failure to display licence	13	111	31
Personal lic deficiencies	3	41	7
Investigations & findings summary	13	54	86
Unauthorised licensable activities	4	8	33
Breaches of licence conditions	2	14	26
Licensing objective concern	7	32	27
Partnership			
Police	1	6	6
Env. Prot	1	3	2
Payments (A/fees)	0	8	23

3.6 **Partnership** – working with other agencies (responsible authorities) is the normal approach to enforcement. As indicated in the table above joint visits with the Police have been undertaken to ‘problem’ premises. This can only help to reduce crime and disorder issues associated with the licensing regime. As expected there is a good relationship between licensing and the Environmental Health function. . This can only facilitate improvements in addressing both the public safety and prevention of public nuisance licensing objectives.

3.7 **Outcomes** – licensing enforcement matters are dealt with in accordance with the main principles of the Environmental Health Enforcement Policy. The outcomes that are applicable to the licensing governance process are as follows:

- NFA = No Further Action taken;
- LIA = Licensing Informal Advice given;
- LFA = Licensing Formal Advice given;
- LWL = Licensing Warning Letter (yellow) issued;
- LFWL = Licensing Final Warning Letter (red) issued;
- LRP = Licensing Referral (to legal for) Prosecution;
- LR = Licensing Referral (to appropriate agency etc).

3.8 It is important to note that licensing services are not currently empowered to seek reviews of premises licences, nor do they have delegated powers to issue section 19 closure notices under the Criminal Justice and Police Act (CJPA 2001).

3.9 **Facts and Figures (2)** – the table below details the recorded outcomes, as a result of all the governance visits undertaken by licensing enforcement. It also includes the number of interviews, undertaken in accordance with the Police and Criminal Evidence Act 1984 (PACE), when required as part of any investigation process:

Visit Type	Outcome	2008	2009	2010
Routine	NFA	29	252	90
	LIA	12	10	41
	LFA	0	1	11
Number of visits		41	263	142
Investigation	NFA	5	9	24
	LIA	2	5	23
	LFA	4	28	32
	LWL	0	2	5
	LFWL	0	0	1
	LRP	0	0	0
	LR	2	10	1
Number of visits		13	54	86
PACE Interviews undertaken		1	9	13
Payment visits		0	8	23
	Results	n/a	NFA	1 LRP
TOTAL of visits		54	325	251

4. Other Licensing Enforcement Activities

4.1 Governance of licensed premises is only one aspect of the work undertaken by the Licensing Enforcement Officer. Licensing services also have responsibility for a range of other functions that require compliance and

enforcement duties. The following table details the main service functions and the corresponding amount of time ascribed to licensing enforcement duties.

Licensing Function	Work Activity
Licensing Act	55%
Taxi matters	30%
Gambling Act	5%
Charities Act	5%
Miscellaneous	5%

4.2 The table below details other governance activity undertaken by the Licensing Enforcement Officer for these licensing service functions:

Enforcement Actions	2008	2009	2010
Taxi Matters			
Drivers	0	1	21
Vehicles	0	1	3
Operators/Proprietors	0	6	12
Ranks	0	3	1
PACE Interviews	0	9	21
Gambling Act			
Gaming Machines	0	11	12
Charities Act			
Street Collections	0	0	0
House to House	0	3	5
Miscellaneous			
Scrap Metal Dealers	0	2	1
Motor Salvage Operators	0	0	0
Sex Establishments	0	2	0
TOTAL	0	38	76

5. Conclusion

- 5.1 The need for enforcement against those who deliberately flout or ignore statutory requirements has to be proportionally balanced against a lighter touch for those that do comply with burdens imposed upon them.
- 5.2 Due to the high number of licensed premises, taxi and other licensing matters within our jurisdiction, licensing services will adopt an open, risk-based approach to targeting inspections that ensure that resources are directed to where they are most directed.
- 5.3 In responding to perceived problems or complaints, New Forest District Council licensing services enforcement will be consistent, proportionate and fair in seeking a solution, whatever the course of action that is taken. Any investigations that are undertaken will follow the appropriate guidelines.

Accurate and comprehensive records will be maintained to ensure that the Licensing Authority is protected should an individual(s) seek to challenge any actions or decisions that are taken.

6. Financial Implications

- 6.1 There are no direct financial implications to the Council as a result this report. It is essential that a Licensing Authority directs appropriate resources towards licensing enforcement in order for it to be effective. What is appropriate depends on the priorities of the authority and the overall resources available to it. However, it should be borne in mind that, generally speaking, licensing fees are available to pay for the cost of administering and enforcing the licence regime in question.

7. Environmental Implications

- 7.1 As expected there is a good relationship between licensing and the environmental health service.. This can only facilitate an improvement regarding the enforcement and compliance for a range of environmental matters, especially noise related complaints emanating from licensed premises.

8. Crime and Disorder Implications

- 8.1 The modern approach to enforcement is towards partnership with other agencies. As indicated by this report joint visits to 'problem' premises are undertaken as appropriate. This can only help to reduce any crime and disorder issues associated with the licensing regime.

9. Equality and Diversity Implications

- 9.1 Equality and diversity impact assessments are always undertaken and considered prior, during and after any enforcement and compliance actions.

10. Recommendations

- 10.1 It is recommended that this report be noted.

Further information:

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Background Papers:

None