



## LICENSING ENFORCEMENT POLICY

### Introduction

The Licensing team operates in connection with the Council's role as the Licensing Authority for the Licensing and Gambling Acts and the Local Authority for the regulation of other licensable activities. The team works in partnership with the police, businesses, residents and other partner organisations. Through advice and enforcement it seeks to ensure compliance with regulations to create and maintain fair and safe standards of operation from the individuals, premises and services it licences and for those that use the licensable services.

### Purpose and Scope

Our services are delivered in accordance with the Regulators Compliance Code and supporting Statutory Code of Practice, which can be seen on the [Department of Business Innovation and Skills](#) website.

The purpose of the Licensing Enforcement Policy is to explain the ways in which this service will enforce the law in accordance with the principles adopted by the department as a whole. The policy sets out what businesses and others affected by its regulatory responsibilities can expect from the service and assists staff in exercising enforcement powers. The policy applies to all officers with enforcement responsibilities, and it will be reviewed as necessary in response to changing circumstances, such as new legislation or guidance.

In general, resources will be targeted on those whose activities give rise to the most serious risks or where hazards are least well controlled.

### Inspections and Other Enforcement Visits

Premises in the borough will be inspected on the basis of licence application, risk assessment, annual inspection, or complaint. Inspections vary according to the legislation applicable. Where comprehensive inspections are carried out the officer will hand over a Post Inspection Report (PIR) that will summarise the findings of the inspection.

Other visits may be made to premises in order to check on compliance with the terms of licence and or legislation. These visits may include covert test purchases, visits in response to complaints, observations of premises etc.

### Enforcement Options

In the event of an infringement being detected then the following list of options are available to the officer:

- a) Advice
- b) Informal warning
- c) Written warning
- d) Simple caution

## e) Prosecution

In taking actions it is important to ensure actions are proportionate to the risk. When the offence detected should, in the opinion of the officer, be dealt with by way of c) Written warning, d) Simple caution or e) Prosecution, then the officer should consult with the Head of Consumer Protection or Team Leader for an initial assessment as to which of those options would be the appropriate. The initial views may well be modified as further information becomes available.

Whilst recognising that officers need to exercise judgement in individual cases, it is also necessary that duties are carried out in a fair, equitable and consistent manner.

For the guidance of officers when offences have been committed in any of the following circumstances then the minimum course of action should be a written warning. The Head of Consumer Protection in consultation with a Team Leader will consider any recommendation from the investigating officer in deciding whether more severe action, including prosecution, should be taken.

In considering whether to initiate a prosecution, the following matters will be considered:

- The offence was committed recklessly, knowingly, deliberately or fraudulently
- The offence had a significant effect on a consumer
- There have been repeated breaches
- The offence has been repeated or is likely to be repeated
- Violence has been used
- The offender was in a position of trust or authority
- The offender was a ringleader or organiser of others who committed the offences
- There are previous convictions or cautions for similar offences
- A significant penalty is the likely outcome if prosecuted
- The admissibility and reliability of the evidence and there being a realistic prospect of conviction
- Relevant matters in the Code of Conduct for Crown Prosecutors
- Any expressed views of victim or victims family
- Whether there has been any wilful obstruction of the officer investigating the offence
- Whether the offender has corrected any harm done to the victim.

Criminal proceedings should not normally be taken against an individual if he/she is not involved in the management or supervision of the licensable activity, nor has any additional responsibility for matters associated with the offence and is acting only in the course of their employment, unless the employee has contradicted the employer's instructions, is being deliberately obstructive or in committing the offence has acted unreasonably.

## **Shared Enforcement Role**

For some legislation there is a shared enforcement responsibility such as the Police, Environmental Health and Trading Standards. The Licensing Act 2003 creates specific responsibilities for enforcement for and protocols have been drawn up.

The Licensing Authority will be the primary enforcer of conditions of the licence. Generally, Trading Standards will enforce the under age sales of alcohol for consumption 'off licensed premises' and the Police for 'on licensed premises'. Complaints about noise nuisance under the Environmental Protection Act 1990 will be primarily the responsibility of Commercial Environmental Health as will inspection and response to complaints about the Health and Safety of licensed premises. Officers of the Licensing Authority where appropriately authorised under other legislation may enforce it on behalf of the Local Authority.

In partnership with the Police, officers of the Licensing Authority may conduct joint inspections of licensed premises where administered under the Licensing Act 2003. These inspections may be routine or as the result of a complaint being received. Where enforcement action is considered necessary officers of the Licensing Authority will take the lead on investigations. Alternatively if the Police use their powers to enforce officer of the Licensing Authority will support and offer assistance where necessary.

Where joint enforcement undertaken by the Police and Licensing officers for unlicensed Street Trading results in prosecutions whether by the police or the local authority these will usually be processed by the local authority.

Licensing officers will often receive information that will be of relevance to other regulators investigating criminal offences. The policy is that such information should be provided to those other regulators providing that no officer commits any offence in providing that information and that the relevant 'authority' for disclosure is provided. Information will be passed to the Police, Customs and Excise, the Inland Revenue, other local Authorities on the above basis.

### **Powers of Entry**

Licensing officers have considerable powers to enforce the law conferred on them by legislation. Some legislation grants authority to enter and inspect premises. Refusal to permit entry may constitute the offence of obstruction. In particular some legislation enforced by the Licensing team allows, if necessary, entry by reasonable force. A warrant issued by the justices will be sought where this is a requirement of entry or in some cases if entry had previously been refused or it is anticipated that entry may be refused and that pre-warning the occupant of entry would defeat the point of entering.

### **Forfeiture of Goods**

When criminal proceedings are instituted in relation to goods which have been seized as evidence of an infringement of legislation then the normal course of action would be to request the court that such goods should be forfeited. Goods seized as evidence must be counted, bagged and tagged where and when possible in front of the offender and a notice of seizure must be completed. The accused must be given an opportunity to sign the seizure notice and be given a copy.

The goods must be held securely until the case comes to trial or a decision not to prosecute is made. Where the case is prosecuted the goods must be made available for the Court who will decide whether or not to order the forfeiture of the goods. If the decision is made not to prosecute, the goods must be made available to the offender for collection and kept securely until such time that they are collected. Goods must

be checked out and signed for. Forfeit goods must be kept securely for such period as the court may order or until appeal options have expired before disposing of them. In a case where a simple caution is accepted the owner of seized goods may assign the goods to the Licensing Service for disposal. As an alternative to seeking a court order, or a simple caution the owner of the goods may be asked to voluntarily assign the ownership of the goods to the Licensing Service for disposal.

Arrangements will be made by the Licensing Service for goods subject of a forfeiture order or voluntarily handed over to the Licensing service to be destroyed or occasionally it may be appropriate to donate goods to a suitable charity, if the goods can be rendered legal through, for example, removal of infringing trade marks.

### **Particular Customer Needs**

This service will endeavour to be flexible in responding to customer needs by adapting the method of operation to suit the customer. In particular the following paragraphs apply in this regard

Service leaflets, letters or other documents are willingly translated into other languages utilising a translation service. There is no additional expense to the customer for this service. We will also arrange for interpreters when necessary.

### **Contacts and Further Information**

If you want further information about the service provided or the standards applicable please contact us or look at our website [www.richmond.gov.uk/consumer\\_protection](http://www.richmond.gov.uk/consumer_protection)  
Call the service on:

#### **Licensing**

Civic Offices  
44 York Street  
Twickenham  
TW1 3BZ

T 020 8891 7117

e-mail [licensing@richmond.gov.uk](mailto:licensing@richmond.gov.uk)

**If you need this information in Braille, large print, audio tape or another language please contact us on 020 8891 7117 or minicom 020 8831 6006.**

اگر آپ کو اس اشاعت کو سمجھنے میں کوئی مشکل ہے تو، براؤزر میں نیچے دیے ہوئے ایڈریس کے استقبالیے پر جا کر ملیئے، جہاں ہم آپ کیلئے ٹیلیفون انٹر پرائیٹنگ سروس (ٹیلیفون پر ترجمانی کی سروس) کا انتظام کر سکتے ہیں۔

Nese keni veshtersi per te kuptuar kete botim, ju lutemi ejani ne recepcionin ne adresen e shenuar me poshte ku ne mund te organizojme perkthime nepermjet telefonit.

إذا كانت لديك صعوبة في فهم هذا المنشور، فنرجو زيارة الإستقبال في العنوان المعطى أدناه حيث بإمكاننا أن نرتب لخدمة ترجمة شفوية هاتفية.

এই প্রকাশনার অর্থ বুঝতে পারায় যদি আপনার কোন সমস্যা হয়, নিচে দেওয়া ঠিকানায় রিসেপশন-এ চলে আসুন যেখানে আমরা আপনাকে টেলিফোনে দোভাষীর সেবা প্রদানের ব্যবস্থা করতে পারবো।

**اگر در فهمیدن این نشریه مشکل دارید، لطفاً به میز پذیرش در  
آدرس قید شده در زیر رجوع فرمایید تا سرویس ترجمه تلفنی  
برایتان فراهم آورده شود.**

જો તમને આ પુસ્તિકાની વિગતો સમજવામાં મુશ્કેલી પડતી હોય તો, કૃપયા નીચે જણાવેલ સ્થળના સંપર્કમાં પર આવો, જ્યાં અમે ટેલિફોન પર ગુજરાતીમાં ઇન્ટરપ્રિટીંગ સેવાની ગોઠવણ કરી આપીશું.

ਜੇਕਰ ਤੁਹਾਨੂੰ ਇਸ ਪਰਚੇ ਨੂੰ ਸਮਝਣ ਵਿਚ ਮੁਸ਼ਕਲ ਪੇਸ਼ ਆਉਂਦੀ ਹੈ ਤਾਂ ਹੇਠਾਂ ਦਿੱਤੇ ਗਏ ਪਤੇ ਉੱਪਰ ਰਿਸੈਪਸ਼ਨ 'ਤੇ ਆਓ ਜਿੱਥੇ ਅਸੀਂ ਟੈਲੀਫੋਨ ਤੇ ਗੱਲਬਾਤ ਕਰਨ ਲਈ ਇੰਟਰਪ੍ਰਿਟਰ ਦਾ ਪ੍ਰਬੰਧ ਕਰ ਸਕਦੇ ਹਾਂ।