

**SPECIFIC GUIDANCE ON ENFORCEMENT OF THE DUTIES OF
ENVIRONMENTAL HEALTH WITH RESPECT TO
LICENSING LEGISLATION**

1 INTRODUCTION AND DESCRIPTION OF STATUTORY DUTIES AND OFFICER DUTIES

- 1.1 All officers authorised to undertake duties with respect to licensing shall abide by this appendix. Unless it is considered there would be significant risk to public health, safety or allow a public nuisance to occur, recur or continue, any departure from this appendix must be exceptional, capable of justification and be fully considered by a panel of senior officers of Environmental Health and a representative of legal services.
- 1.2 All officers authorised to undertake duties with respect to licensing shall be suitably qualified and possess relevant experience as determined by any relevant available guidance whether statutory or non statutory. Each authorised officer's competence will be continually assessed through regular managerial control involving their compliance with this policy, relevant guidance, customer evaluation questionnaires and other performance indicators as determined by Environmental Health management and agreed with the individual.
- 1.3 The Licensing Section administers a wide range of licenses and permits which may be mandatory, where the local authority must license particular activities, or adoptive where the Council has elected to control certain businesses, activities or individuals through the issue of licenses and the imposition of license conditions.
- 1.4 The main purpose of licensing enforcement is to:
- a) Secure the health, safety and welfare of members of the public who either make use of the licensed activity or who are affected by it in some way.
 - b) Deal immediately with serious risks.
 - c) Promote and achieve sustained compliance with the law.
- 1.5 External agencies including Hampshire and IW Police and IW Fire and Rescue Service also have an interest in the enforcement of licensing legislation. Where there is a shared enforcement role, the Council's Licensing Section will liaise with the appropriate body to ensure effective co-ordination. An enforcement protocol with the Police in relation to Liquor Licensing responsibilities has also been developed.

2 ENFORCEMENT OPTIONS

- 2.1 Due regard shall be made to paragraph 1.1 of Appendix One above.
- 2.2 Enforcement officers must seek to secure compliance with the law. Most of the time this will be conducted informally, by offering information, advice and support, both verbally and in writing. They may also use formal mechanisms, as set out in law, including the service of notices, imposition of conditions, suspension of vehicle licenses, or ultimately prosecution.

3 INFORMAL ACTION

- 3.1 Informal action will include the following:-
- a) offering advice
 - b) verbal warnings and requests for action
 - c) the use of letters / reports

- 3.2 The circumstances in which informal action may be appropriate include:-
- a) Where it is considered that informal action will achieve compliance based on the offender's past history.
 - b) Where confidence in the management of the licensed activity or the licensee is high.
 - c) Where the consequences of non-compliance will not pose a significant risk to the physical, financial or emotional well-being of the public, or is of a minor technical nature.

4 STATUTORY ACTION

4.1 Such action may involve the suspension, revocation or the refusal to grant or vary a licence and the imposition of conditions to a licence. Full details of officer delegated authority is detailed in the below schedule of delegations. Such action may be taken when the following applies either singly or in combination:

- i) formal action is proportionate to the risk to public health or safety;
- ii) where there is a record of non-compliance with breaches of licence conditions;
- iii) confidence in the responsible person is low;
- iv) where the authorised officer has sufficient evidence available to justify their issue and is satisfied that any subsequent proceedings are likely to succeed.

4.2 Any person aggrieved by the Licensing Panel's decision to suspend, revoke or refuse to grant/vary a licence has the right of appeal to the Magistrates' Court, or in some cases, to the Crown Court. Where such authority rests with officers the right of appeal may be to the Licensing Panel and or the Courts. In such cases applicants will be advised accordingly.

5 FORMAL CAUTIONS

5.1 When circumstances have been identified which may warrant the issue of a formal caution, all relevant evidence and information will be collated and produced in a format as detailed in the Environmental Health Prosecution Procedure.

6 PROSECUTION

- 6.1 The following circumstances may warrant prosecution:
- a) The offence involves a flagrant breach of the law such that public health, safety or well being is or has been put at risk;
 - b) The offence involves a failure to comply in full or in part with the requirements of a statutory notice;
 - c) There is a history of similar offences;
 - d) The obstruction or assault of an authorised officer;
 - e) False or misleading information is provided to an authorised officer.

SCHEDULE OF DELEGATIONS

Matter to be dealt with	Committee/Panel	Authorised Officer
<u>Acupuncture, Tattooing, Earpiercing, Electrolysis, Body Piercing</u>		
Grant of a Premise Registration		All cases
Grant of a Person Registration		All cases
Breach of Byelaw		All cases
Suspension/Cancellation	Magistrates' Court	

Matter to be dealt with	Committee/Panel	Authorised Officer
<u>Amusement with Prizes, Section 34 Machines</u>		
Up to two AWP machines (as per policy)	Adverse responses received	No adverse responses
Grant of unlimited number of AWP machines	Adverse responses received	No adverse responses
Grant of unlimited All Cash AWP machines	Adverse responses received	No adverse responses
If any of above Section 34 applications refused by Council	Appeal is by way of the Crown Court	
<u>Lotteries and Amusements Act 1976, Part III</u>		
Provisions of Amusements with Prizes at Exempt Entertainments Permits	Adverse responses received	No adverse responses
<u>Animal Boarding Establishments Act 1963</u>		
Grant or renewal of licence	Adverse comments or objections received	Where no objections or adverse comments received
Cancellation or disqualification of licence	Magistrates' Court	
<u>Betting Gaming and Lotteries Act Licence</u>	Adverse responses received	No adverse responses
Revocation of Licence	All cases	
<u>Public Health Act 1936</u>		
Grant or renewal of Camping Site Licence	Adverse responses received	All cases
<u>Caravan Sites and Control of Development Act 1960</u>		
Grant or renewal of Caravan Site Licence	Adverse responses received	All cases
<u>Cinema Film Stores 1922</u> <u>Cinemas Act 1985</u> <u>Cinematograph (Safety) Regulations 1955</u> Transfer or refusal Grant renewal of a Cinema Licence (until November 2005)	Adverse responses received	No adverse responses

Matter to be dealt with	Committee/Panel	Authorised Officer
<u>Dangerous Wild Aiminal Act 1976</u> Grant or renewal of a Dangerous Wild Animal Licence Power to seize and to dispose of unlicensed animals Cancellation or disqualification of licences	Adverse responses received All cases Magistrates' Court	No adverse responses All cases
<u>Breeding of Dogs Act 1973 as amended by Breeding of Dogs Act 1991 and Breeding and Sale of Dogs Act 1999</u> Power to inspect premises not covered by licence under Breeding of Dogs Act 1973 Grant or renewal of a Dog Breeding Licence	All cases Magistrates' Court Adverse responses received	 No adverse responses
<u>Game and Game Dealers Act 1831</u> Grant or renewal of a Licence <u>Game Licences Act 1860</u> Grant or renewal of a Licence		All cases All cases
<u>Guard Dogs Act 1975</u>	(Not yet implemented)	
<u>Town Police Clauses Act 1847 – Licensing of Hackney Carriages</u> Grant, renewal or transfer as per Council policy Appeals against refusal to grant the above Revocation of Licence of proprietors or drivers Appeals against revocation	All cases All cases	All cases All cases

Matter to be dealt with	Committee/Panel	Authorised Officer
<u>Local Government (Miscellaneous Provisions) Act 1976, Part II</u> Hackney Carriage licence conditions Return of identity plate or revocation on expiry Suspension and revocation of vehicle licences, section 60 and 68 All other Hackney Carriage vehicle enforcement action under Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Part II		All cases All cases All cases All cases
Grant, renewal, refusal or suspension of a Hackney Carriage Drivers Licence and/or Private Hire Drivers Licence under the above legislation Appeals against refusal or suspension	All cases	All cases
<u>House to House Collections Act 1939</u> Application for a licence Appeals against refusals	All cases	All cases
<u>Late Night Refreshment Houses Act 1969</u> Grant or renewal of licence Appeal against conditions attached to licence	All cases	All cases
<u>Lotteries and Amusements Act 1976</u> Grant, renewal, refusal or revocation of Society Lottery Appeal against above	All cases	All cases
<u>Performing Animals (Regulations) Act 1925</u> Application for registration Power to prohibit or restrict exhibition and training of performing animals	Magistrates' Court	All cases

Matter to be dealt with	Committee/Panel	Authorised Officer
<u>Pet Animals Act 1951 – Licensing of Pet Shops</u> Grant or renewal of licence Appeal against refusal or conditions attached Cancellation or disqualification of licence or holder	 All cases Magistrates' Court	 All cases
<u>Public Health Acts Amendments Act 1907</u> Power to licence pleasure boats and boatmen Power to withhold, suspend or revoke any of the above licences	 All cases	 All cases
<u>Betting, Gaming and Lotteries Act 1963</u> Application for registration If registration is refused or revoked	 If representations received All cases	 If no representation made
<u>Local Government (Miscellaneous Provisions) Act 1976, Part II</u> Application for grant or renewal of Private Hire Operators Licence with conditions Suspension or revocation of licence Appeal against suspension or revocation or conditions of licence	 All cases	 All cases All cases
Application for grant or renewal of Private Hire Driver Licence with conditions Suspension or revocation of licence Appeal against suspension or revocation or conditions of licence	 All cases	 All cases All cases
Application for grant or renewal of Private Hire Vehicle Licence with conditions		All cases

Matter to be dealt with	Committee/Panel	Authorised Officer
Suspension or revocation of licence		All cases
Appeal against suspension or revocation or conditions of licence	All cases	
<u>Private Places of Entertainment (Licensing) Act 1967</u>		
Application for grant, transfer, variation or renewal with conditions		All cases
Appeal against a refusal of the above applications	All cases	
<u>Local Government (Miscellaneous Provisions) Act 1982 – Licensing of Public Entertainment</u>		
Grant, provisional grant, renewal, renewal, transfer or variation of a licence, refusal of licence	Adverse responses received	No adverse responses
Appeals against refusal or attached licence conditions	All cases	
<u>Riding Establishments Act 1964 and 1970</u>		
Application for grant or renewal of a licence or extension due to death of licensee		All cases
Refusal of licence		All cases
Appeal against refusal of licence	All cases	
<u>Scrap Metal Dealers Act 1964</u>		
Application for registration		All cases
Refusal of application		All cases
<u>Local Government (Miscellaneous Provisions) Act 1982</u>		
Schedule 3, Control of Sex Establishment		
Application for grant, renewal or transfer	Adverse responses received	No adverse responses
Refusal of Licence	All cases	
<u>Safety of Sports Grounds Act</u>		
Application for certificate	Adverse responses received	No adverse responses

