

DECISION-MAKER:	LICENSING COMMITTEE
SUBJECT:	LICENSING ENFORCEMENT POLICY
DATE OF DECISION:	14 JULY 2011
REPORT OF:	HEAD OF LEGAL AND DEMOCRATIC SERVICES
STATEMENT OF CONFIDENTIALITY	
None	

BRIEF SUMMARY

The Licensing Committee is requested to consider the proposed licensing enforcement policy and to adopt it.

RECOMMENDATIONS:

- (i) That the Committee adopt the proposed licensing enforcement policy, attached as appendix 1, with immediate effect.

REASONS FOR REPORT RECOMMENDATIONS

1. In order to assist in demonstrating the consistency of approach in licensing enforcement, and ensure compliance with the available guidance, the City Council should adopt a formal licensing enforcement policy.

DETAIL (Including consultation carried out)

2. The licensing enforcement policy at appendix 1 sets out the approaches to enforcement of licensing matters and processes which the Licensing Team has followed and developed over several years and codifies that good practice.
3. It is important that the Licensing Authority is able to demonstrate that consistency of its approach to enforcement matters, especially when enforcement results in legal action being taken against individuals or corporate bodies
4. The policy only relates to those matters where the Licensing Authority is the enforcing authority, and will not bind other agencies, such as the Police, Fire and Rescue Service, Gambling Commission or Trading Standards, who will have their own enforcement policies and protocols.
5. The licensing enforcement policy is consistent with the corporate enforcement policy and the principals of good regulation: proportionality, accountability, consistency, transparency and targeting.
6. This is not to say that action outside of the framework of the policy cannot be taken, but there would need to be compelling reasons for such action dictated by the discrete circumstances of that matter.
7. Government advice such as the Regulators Compliance Code, Cabinet Office Enforcement Concordat, the Hampton Review and the Macrory report all inform this report.
8. Informal consultation has been carried out with Hampshire Constabulary as the major partner in licensing enforcement and their comments have been incorporated into the policy.

9. It may be necessary to amend the policy from time to time in the light of changes in the law and other circumstances, and this will be reported to the Committee as appropriate.

RESOURCE IMPLICATIONS

Capital/Revenue

10. None - the policy reflects current licensing enforcement practice and procedure.
11. In general terms, where possible, licensing fees are set at a level which provided for the administration, inspection and enforcement of each function. Where fees are chargeable, they are either set centrally, subject to maxima or there is local discretion.

Property/Other

12. None.

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

13. The policy rests in the legislation enforced by the Licensing Team, including the Town Police Clauses Act 1847, the Public Health Acts Amendment Act 1907, the Police, Factories (Miscellaneous Provisions) Act 1916, the House to House Collections Act 1939, the Hypnotism Act 1952, the Scrap Metal Dealers Act 1964, the Local Government (Miscellaneous Provisions) 1976, the Local Government (Miscellaneous Provisions) Act 1982, the Vehicles (Crime) Act 2001, the Licensing Act 2003 and the Gambling Act 2005.

Other Legal Implications

14. Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
15. The Human Rights Act 1998 Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.
16. The adoption of the policy will assist the Licensing Authority in meeting its duty under section 6 of the Human Rights Act 1988 not to act in a way which is incompatible with a Convention right.

POLICY FRAMEWORK IMPLICATIONS

17. None.

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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	Southampton Licensing Enforcement Policy
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Documents In Members' Rooms

1.	None
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Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out?	Yes/No
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Other Background Documents

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	The Regulators Compliance Code	
2.	Cabinet Office Enforcement Concordat	
3.	Hampton Review	
4.	Macrory Report (Penalties & Sanctions)	

Integrated Impact Assessment and Other Background documents available for inspection at:

WARDS/COMMUNITIES AFFECTED:	ALL
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