

AGENDA ITEM: 8

SUMMARY



Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	27th November 2012
PART:	1
If Part II, reason:	

Title of report:	Review of Licensing Enforcement Policy
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To outline proposed amendments to the Council’s Licensing Enforcement Policy, prior to public consultation
Recommendations	To note the proposed revisions to the Licensing Enforcement Policy, to commence public consultation on the revisions, and to report results to a future meeting of the Committee
Corporate objectives:	Safe and Clean Environment <ul style="list-style-type: none">This policy sets out the principles for licensing enforcement activities, which ensure the legal and safe operation of licensed businesses Dacorum Delivers <ul style="list-style-type: none">The revised policy updates a number of sections in light of recent legislative developments and case law, and clarifies a number of delegated authorities.
Implications:	<u>Financial / Value for Money</u> None
Risk Implications	This report relates to a revision of an existing policy, and no new implications arise.
Equalities Implications	This report relates to a revision of an existing policy, and no new implications arise.
Health And Safety Implications	This report relates to a revision of an existing policy, and no new implications arise.

Consultees:	This report proposes public consultation on the policy revisions with the results to be reported to a future Committee meeting for consideration.
Background papers:	DBC Enforcement Statement Draft Licensing Enforcement Policy 2013
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. Dacorum Borough Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. To summarise the principles guiding the exercise of these powers, a licensing enforcement policy has been adopted and published.
- 1.2. Although this document is not formally required under any statutory enactment, it is considered to be a key part of the Council's commitment to the Better Regulation principles – in particular, the transparency and consistency principles. It is also referred to in, and expands upon the contents of, the statutory Statement of Licensing Policy and the Statement of Principles produced by the Council under the Licensing Act 2003 and the Gambling Act 2005.
- 1.3. The current version of the enforcement policy was confirmed by Council on the 24th February 2010, at the same time as a corporate Enforcement Statement was adopted. The current policy was adopted for a three year period, expiring at the end of February 2013.

2. PROPOSED REVISIONS

- 2.1. The draft Licensing Enforcement Policy for the period 1st March 2013 to 28th February 2016 is attached to this report at Annex A.
- 2.2. In compiling the revisions, officers have had regard to the Council's Enforcement Statement, and to recently amended legislation, centrally-issued guidance and case law.
- 2.3. The following paragraphs highlight some of the more significant revisions proposed to the policy:
 - 2.3.1. **Section 1 (Enforcement Principles)**: reconfigured to utilise the principles published by the Better Regulation Executive, and paragraphs have been rearranged and redrafted accordingly.
 - 2.3.2. **Para 2.10 onwards**: the paragraphs relating to cautions have been amended to reflect the revised entitlement. Local authorities may now only issue simple cautions, and in limited circumstances. Formal cautions are no longer issued. The police may issue conditional cautions which, as the name suggests, carry one or more conditions.

- 2.3.3. **Para 2.15 onwards:** Paragraphs have been added to reflect the licensing authority's status as a responsible authority under the Licensing Act 2003, and the powers to make representations and apply for reviews of authorisations.
- 2.3.4. **Para 2.20 onwards:** Paragraphs have been added to reflect the licensing authority's status as a responsible authority under the Gambling Act 2005, and the powers to make representations and apply for reviews of authorisations.
- 2.3.5. **Para 2.24 onwards:** Paragraphs have been added to summarise the powers of suspension, revocation and refusal of taxi related licences. In particular, a new scheme is proposed for the immediate revocation of licences following very serious allegations of misconduct. This is now necessary following a recent court case involving Cardiff City Council, which ruled that the use of the power of suspension as an interim measure is unlawful.
- 2.3.6. **Para 5.3:** Clarified that convictions and cautions may be formally record and reported.
- 2.3.7. **Para 7.5:** Adjusted to reflect the new judicial threshold arrangements for covert directed surveillance authorisations

3. DELEGATION OF ENFORCEMENT POWERS

- 3.1. As part of the consideration of the new policy, the Committee will also be asked to give consideration to delegating a number of powers to officers, to enhance the enforcement powers and tools available. The proposed policy revisions were drafted as if the following delegations had been agreed.
- 3.2. In all cases, Committee will be requested to delegate the power to the Assistant Director (Legal, Democratic & Regulatory), in accordance with the current scheme of delegation. These powers would then be further delegated to other officers as necessary, as indicated below:

Delegated power	Ultimate delegation level
Licensing Act 2003	
To make representations on behalf of the licensing authority in its capacity as a responsible authority in respect of applications under sections 17, 29, 34, 41A, 51, 53A, 71, 84, 86A, 87 or 167 of the Licensing Act 2003	LTL, LEO
To apply for the review of a premises licence under section 51 of the Licensing Act 2003 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing	LTL, LEO
To apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing	LTL, LEO

Gambling Act 2005	
To make representations on behalf of the licensing authority in its capacity as a responsible authority in respect of applications under sections 159, 187, 188, 195, 197, 200 or 204 of the Gambling Act 2005	LTL, LEO
To apply for the review of a premises licence under section 197 of the Gambling Act 2005 on behalf of the licensing authority in its capacity as a responsible authority, and make appropriate supporting representations at the resulting committee hearing	LTL, LEO
To initiate reviews of premises licences of a particular class under section 201 of the Gambling Act 2005 on behalf of the licensing authority, and make appropriate supporting representations at the resulting committee hearing(s)	LTL, LEO
Local Government (Miscellaneous Provisions) Act 1976	
To suspend a vehicle's licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976, on the grounds that the vehicle is unfit for use as a hackney carriage or private hire vehicle	LTL, LEO, LSO
To suspend or revoke a vehicle's licence, a driver's licence, or an operator's licence with immediate effect under section 60, 61 or 62 of the Local Government (Miscellaneous Provisions) Act 1976 respectively, on any of the grounds thereunder, following consultation with the chair or vice-chair of the Licensing, Health, Safety & Enforcement Committee	LTL
To inspect and test a licensed vehicle under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, and to suspend a vehicle's licence under that section where the officer was not satisfied as to the fitness of the vehicle or the accuracy of the taximeter on inspection or test thereof, until such time as any defects have been rectified to the satisfaction of the officer	LTL, LEO

LTL = Licensing Team Leader
LEO = Licensing Enforcement Officers
LSO = Licensing Support Officers

4. TIMELINE

4.1. The following timeline is proposed:

Date	Activity
3 rd December 2012	Start of consultation
20 th January 2013	Last date for consultation responses
12 th February 2013	Licensing HSE Committee meeting Consultation results reported back Decision on whether to adopt revisions
1 st March 2013	Any revised policy adopted to take effect

4.2. Consultation will be carried out by publishing details of the proposed revisions on the Council's website, and by direct notification to key statutory partners, and significant local trade associations.

5. RECOMMENDATIONS

- 5.1. That the Committee note the proposed revisions in the draft 'Licensing Enforcement Policy' document and the proposed new delegations set out at section 3 of this report; and
- 5.2. That the Committee instruct officers to commence consultation on the proposals in accordance with the above timeline, and report the results back to the Committee at its meeting on the 12th February 2013.

ANNEX A – DRAFT LICENSING ENFORCEMENT POLICY 2013