



AGENDA ITEM: 7

SUMMARY

Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	12th February 2013
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, following public consultation
Recommendations	To adopt the attached document as Dacorum Borough Council's Licensing Enforcement Policy for the period from 1 st March 2013 to 29 th February 2016.
Corporate objectives:	<p>Safe and Clean Environment</p> <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 <p>Dacorum Delivers</p> <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:	The results of consultation are set out within the report.
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, as well as other, non-statutory policies adopted in respect of various licensing functions.
- 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. A draft Licensing Enforcement Policy for the period 1st March 2013 to 29th February 2016 was considered by the Committee at its meeting on the 27th November 2012, prior to consultation on the amendments contained within it. The draft policy is attached to this report at Appendix C.
- 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 recorded and reported.

2.3.7. **Para 7.5:** Adjusted to reflect the new judicial approval arrangements for covert directed surveillance authorisations

2.4. Following the November Committee meeting, details of the proposed policy for the 2013-2016 period were published on the Council's website (in both the Licensing area and on the Consultations page), and linked via the Council's Facebook and Twitter accounts. Details were also included within the December taxi e-newsletter. A window for the receipt of comments on the proposals, from the 3rd December 2012 to the 20th January 2013, was offered, but no comments were received within this period.

2.5. In the absence of adverse comments, adoption of the draft policy, as previously considered by the Committee, is therefore proposed.

3. DELEGATION OF ENFORCEMENT POWERS

3.1. As part of the consideration of the new policy, the Committee are also asked to give consideration to delegating a number of additional powers to officers, to enhance the enforcement powers and tools available, and to implement a number of the changes referred to in the draft policy – specifically, the making of representations and review applications on behalf of the licensing authority, and the immediate suspension or revocation of taxi licences. The proposed policy revisions were drafted as if the following delegations had been agreed.

3.2. In all cases, Committee are requested to delegate the power to the Assistant Director (Legal, Democratic & Regulatory), in accordance with the current scheme of delegation. It is envisaged that these powers would then be further delegated to other officers as necessary, as indicated in the table 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 and 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. RECOMMENDATIONS

- 4.1. That the attached document is adopted as Dacorum Borough Council's Licensing Enforcement Policy for the period from 1st March 2013 to 29th February 2016;
- 4.2. That authority to exercise the powers set out in the table at paragraph 3.2 in respect of the making of representations and review applications relating to premises licences and club premises certificates, and the suspension and revocation of various taxi-related licences, and to delegate further to other officers as indicated in the table, be delegated to the Assistant Director (Legal, Democratic and Regulatory).