Basingstoke and Deane

Licensing Service Enforcement Policy and Procedures

2025 to 2030

This Policy also forms an appendix to the Basingstoke and Deane Borough council General Enforcement Policy.

Version	Key Changes	Adopted
1	None	2 June 2025

Contents

Introduction 3
The Objectives and Key Principles of Licensing Enforcement 3
The main objectives of this Licensing Enforcement set out below: 3
Key Principles 4
Standards 4
Openness 4
Helpfulness 4
Accountable 4
Proportionate 4
Consistent 5
Targeted 5
Scope 5
Exclusions 5
Working with Partners 5
Partners 5
Other relevant partners may include but is not restricted to: 6
Policy Review 6
Our Approach to Enforcement 6
Factors to Consider when taking enforcement action? 6
Roles and Responsibilities 8
Responsible Person 8
Competent Persons 8
Authorisation and Delegation of functions 9
Enforcement Priorities 9
Communication 11
Proactive Enforcement 12
Record Keeping Protocols and Data Management 12
Legislative Framework and Government Guidance 12
Taxi and Private Hire 12
Licensing Act 13
Gambling Act 13
Animal Welfare 13
Other licences 13

Introduction

For the purpose of this Licensing Enforcement Policy and procedure document is to highlight the actions that may be taken by the Licensing Team.

Enforcement is defined as

"the act of compelling observance of or compliance with a law, rule, or obligation'.

The licensing team is responsible for enforcing a wide range of legislation and takes a positive, proactive, and balanced approach to ensure compliance and deal with non-compliance.

This promotes an efficient and effective approach to regulatory enforcement which ensures that a consistent, transparent, and fair manner which improves outcomes without imposing unnecessary burden.

Whilst undertaking compliance and enforcement actions, the licensing team will have regard to the Regulators' Compliance Code issued by the Better Regulation Delivery Office of the Department for Business and Skills (April 2014), to the Code for Crown Prosecutors issued by the CPS (Crown Prosecution Service) (January 2013) and to any Statutory Guidance and Local Statements of Licensing Policy.

While we will have regard to this policy when exercising our powers, the council will continue to consider each matter on its individual merits and circumstances. Nothing in this policy shall bind the council to a particular action, or otherwise affect the council's discretion to take legal or other enforcement action, in light of the circumstances of a particular case, where this is considered to be in the public interest.

The Objectives and Key Principles of Licensing Enforcement

The Licensing Team role is to protect the safety and welfare of people including, members of the public, employees and animals who may be exposed to risks from the provision of licensable activities. It is also to protect the interests of those that could be adversely affected by such licensable activities when carried out unlawfully by unlicensed persons or organisations.

The main objectives of Licensing Enforcement are set out below:

- To 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.
- To deal immediately with serious risks.
- To promote and achieve sustained compliance with the law.

-

Key Principles

The Legislative and Regulatory Reform Act 2006 sets out the following regulatory principles:

a) regulatory activities should be carried out in a way that is transparent, accountable, proportionate, and consistent.

b) regulatory activities should be targeted only at cases in which action is needed.

The Licensing team has a responsibility to protect the people they serve using the tools provided within the legislation under which licences and permits are granted. For the purposes of this document the word licence also relates to permits and certificates.

The Licensing team and the council recognise that most businesses and persons carrying out licensable activities wish to comply with the law. Officers will provide advice and guidance wherever possible to assist businesses to meet their legal obligations.

The council follows the principles of the central and local government Concordat on Good Enforcement (the Concordat) and will apply the principles of the Regulators Code to promote an efficient and effective approach to licensing enforcement and improving the outcomes without imposing unnecessary burdens. The principles of the Regulators Code and Enforcement Concordat are:

Standards: to publish clear standards of service and performance.

Openness - the council will provide clear information, guidance, and advice in plain language on the rules that we apply so that those whom we regulate can understand what is expected of them and why. Our guidance will reflect guidance and codes of practice issued by government and other relevant bodies.

Helpfulness - the council will provide help to businesses, voluntary or community groups, and the public to assist them to comply with statutory requirements and encourage them to seek advice and information to reduce the possibility of enforcement action. Applications for licences, registrations, approvals etc. will be dealt with efficiently and promptly and every effort will be made to ensure that, wherever practicable, the council's enforcement services are effectively coordinated to minimise unnecessary overlaps and time delays.

Accountable - the council will provide a well-publicised, effective, and easily accessible complaints procedure. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process.

Proportionate - the council will allow businesses and others to meet their legal obligations and enforcement requirements without unnecessary expense by ensuring that any action we require is proportionate to risk. We will consider the

circumstances of the case, the harm or potential harm caused, and the attitude and history of the business or person when considering formal action. Firm action, including prosecution and other legal or enforcement action, will, however, be taken where appropriate against those who disregard or persistently fail to comply with the law and/or the relevant policies.

Consistent - the council will carry out its duties in a fair, equitable and consistent manner. While Officers are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other enforcement bodies.

Targeted - the council will prioritise its resources according to risk, through intelligence-led activities, and focused on those least likely to comply with the law. We will focus resources on those whose activities give rise to the most serious risks or where there is supporting information that the activities are or likely to be poorly controlled

Scope

The Licensing team administers a wide range of licenses. These may be mandatory, where the local authority must license certain 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.

This policy relates to routine compliance visits, reactive compliance checks and complaint investigation visits.

Exclusions

We will not deal with anonymous allegations of breaches of licensing activities unless there is a potential serious or imminent risk to the public or users of a licensed premises. Complainants name, address, or any other details, will be in the strictest confidence so far as legislation permits.

Working with Partners

Partners

Wherever possible, the licensing team will work in partnership with the Responsible Authorities and other relevant partners to achieve common goals on matters of mutual concern in order to protect public safety. The Responsible Authorities who may be consulted in relation to applications and complaints made to the councils and where enforcement issues arise are:

- Hampshire Police (Licensing and Roads Policing Unit)
- Environmental Health (Environmental Protection, Food and Health and Safety)
- The Planning Authority
- Hampshire Fire and Rescue Service
- Social and Health Care
- Gambling Commission

- Trading Standards

This is to ensure a consistent and robust approach and to avoid duplication of enforcement and unnecessary burdens on businesses.

Other relevant partners may include but is not restricted to:

- An authorised veterinary officer and/or council dog warden/RSPCA for purposes of Animal Welfare Licencing
- Any other relevant party as required

Policy Review

This policy will be reviewed at least every 5 years, or more frequently should the need arise to ensure it remains current and relevant.

Our Approach to Enforcement

We recognise that most people want to comply with the law. We want to co-operate with businesses and individuals to achieve compliance. If there is a problem, we want to resolve it by communicating clearly and encouraging people to behave responsibly. We will follow the '4 Es' approach to enforcement:

We will engage and explain how we think the person or business are not complying with licensing legislation and/or relevant policies and encourage and suggest changes in practice and behaviour in order to reduce the risk to public health, safety, welfare or to the environment.

Formal enforcement action is always a last resort. The council will consider all of the relevant facts of the case and assess them against licensing legislation, local, and national policies.

The council is committed to fair and objective enforcement ensuring that all its policies are applied in a non-discriminatory manner and aimed at promoting good community relations. This policy is applied in accordance with the principles of the council's Equality Policy.

Basingstoke and Deane Borough council is a public authority for the purposes of the Human Rights Act 1998. The council will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Of particular importance for the policy are Article 6 (the right to a fair trial) and Article 8 (the right to respect private and family life)

Factors to Consider when taking enforcement action

Officer(s) will carry out investigations/inspections. This can be in response to a complaint or request for assistance or as part of routine planned inspections of business premises.

The Licensing Officer considers a range of factors before taking enforcement action including:

- Previous History - whether any similar situation has been found before.
- Seriousness of the alleged offence(s), including:
- Risks to the public or the environment
- Any intent or recklessness of the person(s) committing the offence.
- Any obstruction of the investigating officer
- Is their enough evidence to provide a realistic prospect of conviction?
- Would any further action be in the public interest?

For LESS SERIOUS infringements of the law and/or where there is no previous history of offences/non-compliance with legislation the following options are considered:

- Offering advice
- Council Penalty Points
- Verbal warnings and requests for action
- The use of warning letters setting out the potential consequences of any future non-compliance.
- Serving formal Notice

In all cases we will advise the alleged offender what he/she needs to do in order to comply with the law.

For MORE SERIOUS offences the following options will also be considered:

Review of Licence - the outcome of a review of a licence could result in:

- Revocation of the licence
- Suspension of the licence
- Excluding a licensable activity from the scope of the licence
- Modifying the conditions attached to the licence.
- Closure of premises

Where there is clear evidence that an offence is likely to have taken place the alleged offender will be informed of the matters under investigation and may invited to attend an informal interview or a formal interview in accordance with the Police and Criminal Evidence Act 1984.

Information from alleged offenders may be gathered by letter, telephone interview or informal/formal interview.

The council applies two ‘tests' to determine whether a Prosecution or Simple Caution is viable and appropriate and follows guidance set by the Crown Prosecution Service when applying the tests:

• **The Evidential Test** - There must be sufficient evidence to provide a ‘realistic prospect of conviction' against any defendant charged.

• **The Public Interest Test** - There may be public interest factors which are in favour of or are against prosecution. These must be considered before a decision regarding the final enforcement action (caution or prosecution) is taken, prosecutions and injunctions, appeals must be made through the Courts.

Roles and Responsibilities

Responsible Person

Licensing Team Leader

- Overall responsibility for the management and delivery of licensing service in accordance with the council's policies and procedures.
- Overall responsibility for the prioritisation of requests for service or complaints.
- Provide professional leadership of the council's Licensing Team ensuring a level of quality assurance.
- Signing enforcement notices in accordance with the constitution / scheme of delegation
- Determination of the priority rating for licensing requests for service.
- Monitoring and reporting on key performance indicators
- Responsible for preparation, implementation, monitoring, reporting, and reviewing of the licensing enforcement policy.
- Ensuring training, qualifications, and resource requirements for the team to enable the implementation of the policy.

Competent Persons

Licensing Officer

- Responsible officer for investigating relevant unlicensed premises or activities.
- Investigate licensing complaints, identifying appropriate courses of actions ensuring all relevant legislation is considered and followed.
- Updating customers, managers and members as appropriate
- Maintaining accurate and up to date records
- Taking necessary action where non-compliance has been identified.
- Gathering evidence for prosecution / legal action
- Attending briefing and committees as and when required and giving evidence in court.
- Keep their qualifications, CPD and training records updated.
- Advising customers how to make complaints.

Licensing Support Officers

- Receipt and acknowledgement of incidents, notifications of complaints
- Registration and allocation of cases
- Maintaining accurate and up to date records
- Updating customers as appropriate

Legal Officers

- Providing support with expert advice and guidance regarding complex enforcement issues
- Provide direction to ensure compliance with the council's governance policies.
- Ensure prosecution files meet court standards.
- Present prosecution files via the court system

Authorisation and Delegation of functions

Only officers authorised by the council under delegated powers will be permitted to undertake investigations, inspections and visits, or other enforcement actions. Officers will only be authorised to deal with such investigations if they have the experience and specialist knowledge to undertake such action in accordance with established procedures. They will follow the relevant procedures and guidelines in carrying out their duties.

Decisions about what enforcement action is appropriate are based upon professional judgement, legal guidance, statutory codes of practice and priorities set by the council and/or central Government, as well as the individual circumstances of a particular case.

Where appropriate, decisions about enforcement actions will involve consultation between or approval from:

Licensing Team Leader

Regulatory Service Manager

Head of Environment and Community Services

Enforcement Priorities

To make the most effective use of available resources, the council will investigate alleged breaches of license conditions or non-compliance with relevant licensing legislation in accordance with the priorities listed in Table 1 below.

The priorities consider the significance and impact of the alleged offence and assist staff to manage workloads and help to manage customer expectations.

As an investigation of a particular case proceeds, for example after the investigation has commenced, it may become necessary to change the priority level.

Table 1: Enforcement Priorities

Priority	**Type of Breach**
Priority 1 - Very High	• Incidents that are occurring at the time of the complaint which are resulting in (or may result in) an imminent or serious risk to the health and/or safety of the public. • These must be dealt with immediately and take priority over other work. **Example:** • Licensing: Reports of an unlicensed taxi driver with clear supporting evidence which shows they are currently operating or plying for trade.
Priority 2 - High	Potential incidents that may result in significant harm • Incidents that are, or may have, impacts beyond the local authority's boundary. • Incidents where there have been numerous complaints from different sources. **Examples:** • Licensing: reports of unfit vehicle and/or driver but limited supporting evidence. • Licensing: reports of an unlicensed activity being carried out where there is the high risk of public safety implications or high animal welfare concerns, but further investigation is required.
Priority 3 - Medium	• A complaint where the local authority has a mandatory duty to investigate. • Multiple complaints from more than one source **Examples:** • Licensing: reports of a breach of conditions on licence such as operating hours but there is medium risk, but further investigation is required. • Licensing: technical offence of an unlicensed activity being carried out where there is medium risk of public safety or animal welfare concerns, but further investigation is required.
Priority 4 - Low	• A potential one-off incident with no history of complaints and no evident risk to public health/safety • A request relating to a matter that is discretionary for the local authority.

Table 2 - Anticipated site inspection timescales

Priority	Response	Timeframe for initial response
Priority 1 - Very High	Acknowledge receipt of complaint. Pass directly to case officer and notify most senior officer available. Most appropriate available officer(s) attend and action.	Within 2 working days Within 2 working days
Priority 2 - High	Acknowledge receipt of complaint Pass directly to case officer or most appropriate available officer. Officer attends and actions.	Within 2 working days Within 3 working days
Priority 3 - Medium	Acknowledge receipt of complaint and if necessary, request other supporting documents. Commence investigation by phone or visit where appropriate.	Within 2 working days Within 5 working days
Priority 4 - Low	Acknowledge receipt of complaint. If necessary, request other supporting documents. Commence investigation by phone of visit where appropriate.	Within 2 working days Within 10 working days

Communication

If the council receives information (e.g. from a complainant) that may lead to enforcement action against an individual or a business the Licensing team will notify that individual or business as soon as practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public. Depending on the nature of the complaint or alleged non-compliance, the investigation may take several days or weeks to be concluded.

During the progression of enforcement investigations/actions, parties involved will be kept informed of progress. Once the investigation has been completed, officers will determine the appropriate action.

The council will normally publicise details of any convictions, which would serve to draw attention to the need to comply with the law or deter others. Where appropriate, the media will be provided with information about charges that have been put before

the Courts. In addition, details of convictions may be included within statistical datasets returned to central government and other statutory agencies. Records of cautions administered by the authority may also be recorded on national databases, where they can be accessed by other enforcement agencies.

Proactive Enforcement

The council will undertake an annual programme of proactive inspections and interventions including: -

- Spot checks on licensed premises to ensure conditions attached to licenses have been complied with
- Proactive monitoring of events and festivals
- Targeted interventions based on risk.

The Licensing Team Leader will use local intelligence and complaint data to develop the annual plan, along with any planned joint interventions with other enforcing agencies such as the Police and Fire and Rescue.

Record Keeping Protocols and Data Management

In accordance with the General Data Protection Regulation (and Data Protection Act 2018), Freedom of Information Act 2000 and Environmental Information Regulations 2004, the council will not disclose any information relating to the identity of a complainant. Should an investigation result in prosecution, complainants may be required to provide witness statements which will be presented to the Courts. Whilst during the investigation, complainant details will not be divulged it is possible that an individual or business subject of an investigation will make their own assumptions as to who may have informed the council.

Legislative Framework and Government Guidance

Licensing authorities have powers within various legislation to grant and administer licenses and investigate alleged unlicensed activity or breaches of licensing conditions and have powers to remedy non-compliance by statutory and other means.

The following sets out the legislative framework applicable to licensable activities in the following Acts of Parliament and any Orders and Regulations made under the principal Acts:

Taxi and Private Hire

Local Government (Miscellaneous Provisions) Act 1976,

Public Health Act 1936,

Deregulation Act 2015

Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

Town Police Clauses Act 1847

Taxi and Private Hire Vehicles (Safeguarding and Road Safety Act) 2022

Licensing Act

Licensing Act 2003

Policing and Crime Act 2009

Police Reform and Social Responsibility Act 2011

Live Music Act 2012

Deregulation Act 2015

Gambling Act

Gambling Act 2005,

Animal Welfare

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 as amended.

Animal Welfare Act 2006

Dangerous Wild Animals Act 1976

Other licences

House to House Collections Act 1939

Police, Factories, etc. (Miscellaneous Provisions) Act 1916, (as amended by the Local Government Act 1972)

Charitable Collections (Transitional Provisions) Order 1974

Caravan Sites and Control of Development Act 1960

Mobile Homes Act 2013

Business and Planning Act 2020

Scrap Metal Dealers Act 2013

Local Government (Miscellaneous Provisions) Act 1982

Housing Act 2004 (as amended)

Pollution Prevention and Control Act 1999

This list is not exhaustive and is subject to change.

In addition to the legislative framework guidance and advice from central Government, other professional bodies and local policies on various licensing functions including enforcement will also be considered by officers when determining the appropriate cause of action.