

Licensing enforcement policy

Overview

The Licensing Team administers and enforces a wide range of legislation intended to protect public safety, local economies and the environment from any adverse effects of the provision of licensable activities. This document provides guidance on the way in which we will exercise our powers to achieve compliance with the law and licence conditions. 'Licence' is used throughout this document to cover any type of authorisation issued by the Licensing Team and includes consents, permits and registrations.

Officers are authorised by the councils using delegated powers to be able to carry out investigations, inspections and enforcement actions. Officers will only be authorised if they have the experience and specialist knowledge to undertake such activities. Officers shall follow any relevant procedures and guidelines in carrying out their duties and shall ensure they comply with any relevant legislation such as the Police and Criminal Evidence Act 1984 and Regulation of Investigatory Powers Act 2000. Officers are issued with a personal identity card and evidence of their authorisations, which will be carried with them at all times and can be shown upon request.

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

The principles of enforcement

We believe that enforcement should be carried out fairly and in a way that avoids an unreasonable regulatory burden. We have adopted the principles of good enforcement and processes in compliance with the Regulators' Code. Our enforcement actions will reflect the following principles:

- **Proportionate** – the action that we decide to take shall reflect the risk to public safety or the environment, prevention of crime and disorder, prevention of nuisance, and protection of children from harm. As far as the law allows, we will take account of the individual circumstances of each case when considering appropriate action.
- **Transparent and open** – we will try to make sure that individuals, businesses and organisations clearly understand the reasons for enforcement action being taken against them, and can easily recognise the difference between legal requirements and advice or guidance.

- **Consistent and fair** – we will aim to achieve consistent enforcement so that the action taken and decisions reached will be similar in comparable circumstances. To help achieve greater consistency on a regional basis, we will actively participate in local authority liaison schemes with neighbouring authorities where available.
- **Targeting** – we will prioritise inspections and enforcement to focus on activities that represent the greatest risk to public safety or the environment. Enforcement activities may be targeted towards individuals who have been subject to previous enforcement action. Individuals or businesses that may be subject to enforcement action will be notified at the earliest opportunity, unless this could impede an investigation or pose a safety risk.
- **Equality and fairness** – we aim to have a fair approach to our enforcement activities. We will carefully consider the needs of anyone who is subject to enforcement action and be sensitive to the needs of those persons who may be particularly vulnerable during the enforcement process.
- **Accountable** – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaint procedures.

The range of enforcement actions

In any situation which requires action to ensure compliance with legislation or licence conditions, officers will consider the following when deciding on the most appropriate enforcement action:

- The degree of risk from the situation
- The particular circumstances of the case and likelihood of its continuation or recurrence
- Whether any harm was caused
- The aim to eliminate any financial gain or benefit from non-compliance
- The general attitude of the offender to his or her responsibilities
- The past history of the person(s), company or premises involved
- The impact of the enforcement choice in encouraging others to comply with the law
- The likely effectiveness of the various enforcement options
- Any legal guidance
- Any guidance document or relevant policy adopted or published by the councils

Under normal circumstances, a process of escalation will be used until compliance is achieved. Exceptions would be where there is a serious risk to public safety or the offences have been committed deliberately or negligently or involve deception, or where there is significant economic detriment. Culpability and harm will always be considered.

In some cases, we may take no action, or we may refer the matter to another service or agency. Where we do this, we will explain our reasons to any complainant.

As a general rule, the following options for enforcement action are open to the Council. Use of any informal action will not limit our discretion to pursue other enforcement options. Where appropriate, the individual or business concerned will be offered an opportunity to comment on the matter prior to a decision being made in respect of the course of action to be taken, and they retain the right to seek their own legal advice.

Informal action

- **Education** – we will advise on how to comply with the law and licence conditions, and will also promote good practice by:
 - responding to enquiries
 - using media including social media
 - publishing newsletters and guidance, and
 - working with partner agencies to provide advice and guidance
- **Informal warnings** – for minor breaches of the law or licence conditions, we may decide that the most appropriate course of action is to issue a verbal or written informal warning.
- **Penalty points** – hackney carriage and private hire licence holders who breach the law or licence conditions may be issued with penalty points as detailed in our Joint Taxi Licensing Policy.

Formal action

- **Legal notices** - some laws that we enforce allow us to serve notices on an individual or an organisation. The consequences of failure to comply will be set out in writing in the notice, and may include financial penalties and/or revocation of any licence.
- **Panel hearings and reviews** – licence holders who breach the law or licence conditions or those who fail to promote the licensing objectives may be put before a panel of councillors. Panels may change licence conditions, activities or hours and suspend or revoke licences. Details of how to appeal against a panel's decision are included within all decision letters.
- **Refusals, suspensions and revocations of licences** – some behaviour or incidents may give cause for a review as to whether someone should continue to hold a licence, including where a person or business no longer complies with the relevant licence, policy or conditions. Any decision made will be communicated in writing with full reasons and details of how to appeal.
- **Simple cautions** – in certain situations, we may consider it appropriate to issue a simple caution instead of deciding to prosecute. We may use simple cautions to deal with less serious offences quickly, having taken into account the wilfulness with which the offence was committed, the attitude of the offender and the views of any victim. It is unlikely that we would offer a simple caution in circumstances where the offender has a history of failing to change their behaviour. An offer of a simple caution will always be accompanied by a full explanation of the effects and implications of acceptance, and a suitable period of time will be given to allow the full consideration of the offer. To accept a simple caution, the person involved must admit the offence. Cautions will be recorded and may be cited during future legal actions. In circumstances where a simple caution is offered and refused then the case will usually proceed to court.
- **Prosecution** – we will not proceed with a prosecution unless we have carefully assessed the evidence in line with the Code for Crown Prosecutors and other

relevant guidance. This means that a prosecution will only be brought where there is sufficient evidence to provide a realistic prospect of conviction and it is in the public interest to do so. We will take into account the level of risk and/or harm, the attitude of the offender, any previous history, vulnerability of any potential victims, and the deterrent effect of any prosecution.

Complaints

If you consider that the enforcement action we take does not follow the principles set out in this policy, you should raise your concerns with the relevant enforcement officer who may pass your complaint to the Team Leader or Service Manager. If you are not happy with the outcome of your complaint you can escalate your concerns using our complaints procedure, details of which can be found here:

www.whitehorsedc.gov.uk/get-in-touch/comments-suggestions-and-complaints/

www.southoxon.gov.uk/about-the-council/get-in-touch/comments-suggestions-and-complaints/

Alternative formats

Please do not hesitate to contact us if you would like this policy in an alternative format.

Contact information

Licensing Team
Vale of White Horse and South Oxfordshire District Councils
Abbey House
Abbey Close
Abingdon
OX14 3JE

licensing.unit@whitehorsedc.gov.uk

licensing@southoxon.gov.uk

Tel: 01235 422556 (if you call this number you will need to leave a message with your name and number and we will call you back)

Change record

This policy will be periodically reviewed, and at least every four years, to ensure it remains accurate in light of any significant changes in legislation, Codes of Practice or similar.

Change Record	
Policy title	Licensing Enforcement Policy
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Owner(s)	Laura Driscoll
Author(s)	Laura Driscoll
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