



City of Westminster

Licensing Committee

Date:	14 November 2012
Classification:	For General Release
Title:	Licensing Enforcement Briefing Report
Report of:	Operational Director for Premises Management
Wards Involved:	All
Policy Context:	Licensing Act 2003
Financial Summary:	There are no financial implications arising from the proposals in this report
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1. Executive Summary

- 1.1 This report was first published for the Night Time Economy Member Working Group meeting held on Wednesday 17 October 2012 and is re-produced here for Members of the Licensing Committee's information.

2. Recommendations

- 2.1 The Committee is recommended to note the report.

3. Background

- 3.1 In the City Council licensing enforcement is the responsibility of the Premises Licensing Inspectors.
- 3.2 The service provides for the monitoring and enforcement of the provisions contained in the Licensing Act 2003. This includes a programme of inspections, dealing with unlicensed activity, tackling prominent premises and dealing with complaints from the public.

- 3.3 The service also deals with the inspection and supervision of premises licensed to sell sexually explicit material and with unlicensed premises selling sexually explicit material as well as the inspection and supervision of premises licensed to provide massage and special treatment, premises licensed under the Gambling Act 2005 and supervision of premises with licensed tables and chairs. More recently, the service is responsible for the enforcement of the Health Act 2006 in relation to smoke free workplaces.
- 3.4 There are 20 officers, split into three teams working a shift pattern which gives us the capacity to undertake evening and night time inspections from Thursday nights through to Sunday mornings.

4. Enforcement

- 4.1 As with all forms of enforcement undertaken by the City Council it is governed by an enforcement policy, which outlines how the officers will go about enforcement in a consistent, fair and open way and have drafted a Licensing Enforcement Protocol with the police, see Appendix 1.
- 4.2 In addition to this we also have to adhere to the Enforcement Concordat, the Regulators Code of Compliance and government guidance issued under various legislation documents, including the Licensing Act 2003. The Enforcement Concordat is at Appendix 3.
- 4.3 The team make many informal interventions on a day to day basis but in relation to formal enforcement there are two real areas of work, Reviews, under the Licensing Act 2003 ('LA03') and prosecution for offences under the various other pieces of legislation we enforce.

5. Reviews under LA03

- 5.1 At any stage, following the grant of a premises licence, a Responsible Authority may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. In addition, a review of a licence will normally be undertaken in the event that the licensing authority receives notice of a magistrates' court's determination in respect of action by the police to close down premises for up to 24 hours on grounds of disorder or noise nuisance.
- 5.2 Responsible Authorities include the Police, Environmental Health and since April this year the Licensing Authority.
- 5.3 Government guidance suggests that licence holders should be provided with early warning of concerns about problems identified at the premises and this is in keeping with the Enforcement policy. If officers identify issues with licensed premises they will initially work with premises in order to help them promote the licensing objectives. However, if the premises fail to achieve a resolution to the problem identified then it may result in a review.
- 5.4 Since September last year there have been 21 applications for review

submitted to the Licensing Authority. Two cases resulted in the Licence being revoked completely and those premises currently remain closed. These were 'Expedited Reviews' brought by the Police where there were Serious Crime and Disorder issues associated with the premises concerned.

5.5 The thirteen premises were brought for Review following identified Crime and Disorder, Public Nuisance or Public Safety issues. These cases were dealt with by way of

1. Reduced hours imposed
2. Capacity Reduced
3. Additional Conditions added to the Licence.

5.6 There are six cases recently submitted for Review where the cases are yet to be heard.

6. Prosecutions

6.1 Licensing Inspectors tend not to prosecute under LA03. Although there are a number of offences the outcome of prosecutions are not usually that much of a deterrent. We have found that the threat of Review, which could ultimately end up in the revocation of the licence to be a much better way of encouraging problematic premises to promote the licensing objectives.

6.2 In some cases it may be appropriate for a responsible authority to apply for a review at the same time as taking a prosecution. Such decisions are made on a case by case basis e.g. prosecutions have been undertaken under LA03 where shops have sold to alcohol to children in addition to calling a review.

6.3 Prosecutions are more common under other legislation, most notably the Health Act 2006. In 2011 we have instigated 24 prosecutions for offences under the Health Act.

Prosecutions Pending:

There are currently 10 prosecutions pending

Al Deewan, 11 Sale Place
Arabesque, 12 New Quebec Street
Andalous, Edgware Road
Boudour, Abbey Road (four cases)
Gulf Nights, Crawford Street
The Knightsbridge Café, William Street SW1

Prosecutions in the last 9 months:

Since the beginning of 2012 there have been 14 prosecutions under the Health Act. All of which have been found guilty.

Selma Café, 386 Edgware Rd	£500 Fine & £827 Costs
Momtaz Café, Chippenham Road W9	£1000 Fine & £1989 Costs
Arabesque, 12 New Quebec Street	£100 Fine & £100 Costs
Arabesque, 12 New Quebec Street X2	£100 Fine & £200 Costs

Arabesque, 12 New Quebec Street	Con Discharge 6 Months £50 Costs
Room 1, Edgware Road	£300 Fine & £1110 Costs
Sanin Restaurant, Edgware Rd X2	£250 Fine & £350 Costs
Rose Café, Praed St	£400 Fine
Little Persia, Queensway	£100 Fine & £200 Costs
Sahara Palace, Praed Street	£130 Fine & £80 Costs
Farfesh, 1 Glentworth Street	£100 Fine & £200 Costs
The Knightsbridge Café, William Street	£500 Fine & £850 Costs

7. Joint Tasking

- 7.1 Premises come to the attention of officers through a variety of different methods including proactive inspections of high risk premises, customer complaint, self generated visits and referral from other agencies. Regardless of its source premises are brought to a weekly joint tasking meeting where the licensing inspectors, environmental health and the police consider what information each agency holds on the premises and how best to deal with them.
- 7.2 Joint tasking also considers the actions and interventions made by the police and the council each week in order to identify any trends or premises that are of interest to both the council and the police
- 7.3 Each month a report is produced for the joint tasking that highlights the crime reports at licensed premises across Westminster. Unfortunately we have been having difficulty in appointing an analyst that could research this further. This was initially due to money only being available for a short contract however money has recently been made available to make this a one year contract with a view to making it a permanent post and recruitment is underway.

8. Metra Review

- 8.1 An application was made by the Metropolitan Police Service for a Review of the premises licence for Metra, Basement, Victory House, 14 Leicester Square, London WC2H 7NG. It was received by the licensing authority on 20th June 2012, on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance
- 8.2 According to the police the review proceedings were brought due to the extensive history of incidents of disorder and crime, particularly violent crime, in and/or in the immediate vicinity of the premises. The majority of these took place between 01:00 and 03:00. This continued despite a high level of Police intervention and advice. The Police found it difficult to identify and deal directly with the person or persons who are effectively in control of the premises. Promises made by or on behalf of the management were not kept. The incidents demonstrated failings in the management of the premises including inadequate control over admission to the premises, the nature and misconduct of the clientele and the levels of drunkenness permitted or tolerated on the premises.

8.3 It was the police view that the minimum necessary intervention by the licensing sub-committee involved:

- A period of suspension, in order to break the patterns of behaviour of management, staff and clientele.
- A reduction in the terminal hours for licensable activities and in opening hours
- No new or re-entry after 01:00 (save for smokers)
- A restriction on the entry to the premises of intoxicated persons and on groups of males of 3 or more
- A requirement to use polycarbonate glassware, with limited exception for example, supervised consumption of champagne
- CCTV model conditions
- Maintenance of an incident log
- Use of high-visibility vests
- Supervision of area immediately outside the premises for a specified period following the cessation of licensable activities

8.4 A representation was made by the Environmental Health Service in support of this review and also from the Licensing Service on the grounds that the licensee is not supporting the licensing objectives

8.5 The decision of the LSC was to suspend the licence for a period of one month and to attach new conditions to address the issues raised by the police including the CCTV, polycarbonate glasses and the keeping of adequate logs

8.6 The LSC report and decision are attached and the full set of documents can be found on the Licensing Register at:

<http://idoxpa.westminster.gov.uk/online-applications/simpleSearchResults.do;jsessionid=E4D1112599D0E840312DA5A18A9C6E0D?action=firstPage>

8.7 The premises have appealed the decision.

9. Aura Review

9.1 An application was made by the Commissioner of Police of the Metropolis for a Review of the premises licence for Aura, 48-49 St James's Street, London SW1A 1JT. It was received by the Licensing Authority, on 20th June 2012, on the grounds of The Prevention of Crime and Disorder, Public Safety and The Prevention of Public Nuisance.

9.2 During the last year, a number of incidents had occurred both inside and outside premises. The Police stated that they had been trying to work with the management of the premises to address the licensing objectives but despite all their efforts there had been no long term visible effect on the reduction of crime and disorder, and they recommend revocation of the licence

- 9.3 The application provided witness statements from Police Officers who had been involved with the premises. A Detective Sergeant Brian Knight also provided CCTV images which had been served on the Licensing Authority and the Licensee. The CCTV images were made available to all at the Licensing Sub-Committee.
- 9.4 Representations were received in support of this review from the Licensing Authority who have concerns regarding crime and disorder, public safety and public nuisance, the Environmental Health Service who believe the licensing objectives are being undermined, from a local resident in support of this review application on the grounds of crime and disorder, public safety and public nuisance and a local resident association,
- 9.5 Following the hearing the LSC decided to modify the terms of the licence in relation to the hours for the playing of music and to attach new or additional conditions.
- 9.6 The LSC report and decision are attached and the full set of documents can be found on the Licensing Register at
<http://idoxpa.westminster.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>
- 9.7 The premises have appealed the decision.

APPENDIX ONE



LICENSING ENFORCEMENT PROTOCOL

LICENSING ACT 2003

BETWEEN:

1. The Licensing Authority for the Westminster City Council
2. The Metropolitan Police Introduction

Introduction

This protocol has been established in furtherance of the Government's recommendation contained in Guidance issued by the Department of Culture, Media and Sport under section 182 of the Licensing Act 2003.

The terms of this protocol are not intended to be restrictive or binding and it is recognised that departure from its terms may be appropriate and necessary in the individual circumstances.

This protocol will be subject to continuous review.

The Act integrated six separate licensing regimes into a single system. The new regime deals with the sale or supply of alcohol, provision of regulated entertainment and the provision of late night refreshment.

The Act requires the promotion of four statutory objectives, which must be addressed when licensing functions are undertaken. These are —

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance; and
- The protection of children from harm

Each objective is of equal importance.

Government guidance promotes delivery of the objectives by working in partnership between licensing authorities, the police, the fire authority, Crime and Disorder

Reduction Partnerships, town centre managers, local business, performers and their representatives, local people, local transport authorities, transport operators and those involved in child protection.

Purpose and aims

The purpose of this Protocol is to clarify the roles and responsibilities of the signatory services in enforcing the provisions of the Act.

The principle aims of the protocol are to:

- promote the Licensing Objectives
- promote partnership working
- clarify the lines of responsibility
- clarify the procedure for calling for reviews of licences

Sharing Information

Information will be shared in accordance with the existing Data Sharing Protocol, to which the signatories to this protocol are a party.

Licensing Tasking Meeting

A bi-weekly licensing tasking meeting will be held to identify issues associated with premises contravening one or more of the licensing objectives and/or contravening licence conditions and to agree upon the most effective enforcement.

Joint inspections will be undertaken whenever an objective reason for such an inspection is identified at the Licensing Tasking Meeting.

Inspections

Government guidance states that, “the police remain key enforcers of licensing law”. The signatories to this Protocol support this view.

The Act does not require inspections to be undertaken, though government guidance suggests that a light touch should be applied to compliant premises and that resources should be target towards problem premises. Therefore, routine inspections will not be undertaken, save as part of targeted project work.

Premises Licensing Inspectors

Following the issue of a ‘Premises Licence’ by the Licensing Service, a ‘desktop’ risk rating exercise will be undertaken within the Community Protection Department to identify licensed premises which are at a higher risk of breaching the licensing objectives. The purpose of the inspections is to ensure that premises are conducted in accordance with the licence conditions and to provide advice, assistance and guidance to the management of these premises so that they may promote the licensing objectives.

There are four categories, which will be used to determine the level of risk for each licensed premises and the risk level will determine the need for a licensing inspection.

The four 'desktop risk factors are -

- a) the primary use to which the premises will be used;
- b) the overall permitted capacity;
- c) the terminal hour, and
- d) whether the premises is located within a stress area

Following the licensing inspection an assessment will be made taking into account following additional factors namely -

- e) compliance with the licence conditions;
- f) promotion of the licensing objectives, and
- g) confidence in the management of the premises

The outcome will determine the length of time or frequency of future inspection of the premises.

In additions to the 'risk rated' inspections outlined above, premises will also receive licensing visits as a result of information / intelligence provided by other responsible authorities or by way of complaints received from members of the public with regard to non-compliance with a licence condition or one or more of the four licensing objectives. These 'reactive' visits are intended to quickly resolve the issues of concern in co-operation with the management of the premises and, at the same time, provide long-term solutions designed to prevent re-occurrence in the future.

Consultation Team

The EH Consultation Team are the Responsible Authority for the Environmental Health Service under the Licensing Act.

Any applications for a new Premises Licence or variation will be assessed to ensure the licensing objectives are promoted, as well as assessing applications in line with the Council's Licensing Policy. This will normally result in a visit to the premises to assess the general arrangements of the premises and suitability for the proposed licensed activities. Regard will be had to the location of the premises in relation to stress areas, residential properties or other noise sensitive buildings.

Officers from this team will carry out pro-active visits at weekends to see the normal operation of premises and their impact on the surrounding areas.

The EH Consultation Team will carry out reviews of premises licenses where evidence has been obtained that the licensing objectives have been breached.

Westminster Police Licensing Team

The primary role of the Police Licensing Team is to ensure that premises within Westminster are properly managed. Where serious criminal offences are committed

the team will investigate the circumstances surrounding the offence to ensure that the licensing objectives and any conditions on the premises license are being adhered to. This investigation will commence within 48 hours of the offence coming to the attention of the officers on the Police Licensing team. The Police will also undertake to investigate the impact on the licensing offences of any criminal offence which takes place within Licensed Premises in Westminster. These investigations may take longer to implement and should be discussed at the monthly tasking meeting unless this would, in the opinion of the officer involved be unnecessary or inappropriate.

The secondary role of the unit is to facilitate the work of the other enforcement agencies, where appropriate. This will involve joint visits and the use of Police powers to facilitate the investigations of other partner agencies.

Prosecution

Section 186 of the Act provides that proceedings for offences under the Act may be instituted by:

- the Licensing Authority
- the Director of Public Prosecutions
- Trading Standards (for offences under Sections 146 and 147)

The signatories to this Protocol will, wherever reasonably practicable make their officers available to give evidence on behalf of the relevant prosecuting authority.

Prosecution action will be considered in line with the Code for Crown Prosecutors. In addition, enforcement action and prosecutions by Westminster City Council will be undertaken in line with its Corporate Enforcement Policy and the Enforcement Concordat.

A list of the offences under the Act and the authorities that can take prosecution action is attached as Appendix 1.

A copy of the Corporate Enforcement Policy is attached as Appendix 2.

A copy of the Enforcement Concordat is attached as Appendix 3.

Prosecutions Instituted by the DPP

Prosecutions undertaken by the Police are at the behest of the Director of Public Prosecutions (DPP) under s 186 of the Act.

Reviews

At any stage, following the grant of a premises licence, a Responsible Authority may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. In addition, a review of a licence will normally be undertaken in the event that the licensing authority receives notice of a magistrates' court's determination in respect of action by the

police to close down premises for up to 24 hours on grounds of disorder or noise nuisance

The following are Responsible Authorities —

- the police
- the fire authority
- the health and safety authority
- the planning authority
- the social services authority (child protection committee)
- Trading Standards

Government guidance suggests that licence holders should be provided with early warning of concerns about problems identified at the premises. Save in exceptional circumstances early warning will be given before those parties who are a signatory to this Protocol request a review.

In some cases it may be appropriate for a responsible authority to apply for a review at the same time as taking formal enforcement action. Such a decision will be made on a case by case basis.

A local resident, residents’ association, and local business or trade association may also make a request to the Local Authority, for a review. Upon receipt of such a request the Council will notify the Metropolitan Police.

Temporary Event Notices

The police and Environmental Health may serve an objection notice to a temporary event notice, where they are of the opinion that any of the 4 licensing objectives would be undermined.

The supervision of TEN’s falls jointly on Police and the Local Authority to ensure compliance with the legislation.

Underage Sales

Test purchases of alcohol by children will be undertaken with due regard to the Guidance issued by LACORS and endorsed by The Home Office.

Signed Date.....

[NAME]
Licensing Authority

Signed Date.....

[NAME]

Metropolitan Police

LA = Licensing Authority
 CPC = Club Premises Certificate
 DPS = Designated Premises Supervisor
 PLH = Premises Licence Holder
 AO = Authorised Officer

Section	Offence	Authority
33 (6)	Failure to notify LA of change of name or address PLH or DPS	LA
40 (2)	Failure to notify existing DPS of variation to premises licence to exclude them	LA
41(5)	Failure to provide premises licence to LA upon removal of DPS	LA
46 (4)	Failure to notify DPS of application for transfer of premises licence	LA
49 (5)	Failure to notify DPS of grant of interim authority notice	LA
56 (3)	Failure to provide premises licence at request of LA for amendment	LA
57 (4)	Failure to keep or display premises licence on premises	LA
57 (7)	Failure to produce premises licence to an AO for examination	LA
59 (5)	Obstruction of an AO entering premises to inspect before grant of a licence, review or a statement	LA
82 (6)	Failure to notify of change of name or alteration of rules of a club	LA
83 (6)	Failure to notify of a change of registered address of club	LA
93 (3)	Failure to produce CPC for amendment within 14 days of LA request	LA:
94 (5, 6, 9)	Duty to keep, display and produce club premises certificate at premises	Police or LA
96 (6)	Inspection of premises before grant etc of club premises certificate	LA
108 (3)	Obstruction of an AO in inspecting temporary event premises	LA or Police
109 (4)	Failure to keep or display temporary event notice on premises	Police or LA
109 (8)	Failure to produce temporary event notice to an AO	Police or LA
123 (2)	Failure to notify LA of conviction for relevant offence during application or renewal period	LA

127 (4)	Failure to notify LA of change of name or address of personal licence holder	LA
128 (6)	Fail to notify court of personal licence or “notifiable event” when being dealt with for a relevant offence	Police or LA
132 (4)	Failure to notify LA of conviction for relevant or foreign offence	LA
134 (5)	Failure to produce personal licence within 14 days to LA for updating	LA
135 (4)	Failure to produce personal licence to an AO whilst on premises to sell or authorise sale of alcohol	LA or Police
136 (1)	Allowing licensable activities otherwise than in accordance with an authorisation	LA or Police
137 (1)	Unauthorised exposure for retail sale of alcohol	LA or Police
138 (1)	Unauthorised possession of alcohol with intent to sell or supply	LA or Police
140 (1)	Allowing disorderly conduct on licensed premises	Police or LA
141 (1)	Sale or supply of alcohol to person who is drunk	Police or LA
142 (1)	Obtaining alcohol for a person who is drunk	Police or LA
143 (1)	Failure to leave licensed premises following a request from a PC or AO	Police
144 (1)	Keeping unlawfully imported goods on relevant premises	Police or Customs and Excise
145 (1)	Allowing unaccompanied children under 16 on relevant premises when alcohol is being supplied	LA or Police
146 (1, 2, 3)	Sale or supply of alcohol to children under 18	Trading Standards, LA or Police
147 (1, 3)	Allowing sale or supply of alcohol to children under 18	Trading Standards, LA or Police
147A (1)*	Persistently selling alcohol to children under 18	Trading Standards, LA or Police
148 (1, 2)	Sale or supply of liqueur confectionery to children under 16	LA or Police
149(1,3,4)	Purchase or supply of alcohol by or on behalf of children under 18	LA or Police
150 (1, 2)	Consumption on relevant premises of alcohol by children under 18,~ or knowingly allowing it to occur	LA or Police

151 (1, 2,4)	Delivering or permitting others to deliver alcohol to children under 18	LA or Police
152 (1)	Sending a child under 18 to obtain alcohol for consumption	LA or Police
153 (1)	Permitting children under 18 to sell or supply alcohol children	LA or Police
156 (1)	Sale of alcohol in or from a moving vehicle	Police
158 (1)	False statement in connection with a licensing application	LA
160 (4)	Keeping premises open in contravention of an area closure order	Police or LA
161 (6)	Permitting premises to be open in contravention of a premises closure order	Police or LA
165 (7)	Permitting premises to be open in contravention of a Magistrates' closure order	Police or LA
179 (4)	Obstructing entry by a PC or an AO to premises to check on the carrying out of licensable activity	Relevant responsible authority
Part 8	Noise	Police

ENFORCEMENT POLICY

Introduction

Local Councils enforce legislation to protect the individual and the community as a whole. Council Enforcement Services carry out a range of activities with the aim of achieving this and to achieve compliance with legislation by individuals and businesses. The purpose of this policy is to publicly summarise the Council's enforcement policies adopted to seek such compliance. It is ultimately the responsibility of individuals and businesses to comply with the law.

The policy is an "Umbrella" policy intended to apply to all service areas, though it should be noted that various additional service-specific requirements apply to specific enforcement activities in certain services, i.e. health & safety, food safety, trading standards.

Detailed service-specific policies and procedures, where needed, are held, updated, audited and reviewed by the service departments. Information on these may be obtained from the Director's office of the relevant department.

Council aims and objectives

Westminster City Council has set out its strategic aims and objectives and the enforcement services of the Council carry out their duties in support of these aims. The specific aims and objectives that relate to enforcement services are found in:

- Council and Cabinet Policy and Strategy decisions
- The City Plan, that reflects the partnership approach and activities to improve quality of life and wellbeing in Westminster
- Relevant Council initiatives that apply from time to time, e.g. at the present time the City Council is pursuing the Civic Renewal Programme, which is currently up-dated each year in the Leader's Speech.
- The Departmental Service Plans, which reflect the above priorities and the core enforcement activities of the services.

Council aims and objectives have been drawn up in consultation with the public. Details of the consultation is available from the Policy and Communications Department and on the City Council's website www.westminster.gov.uk

Compliance

A range of activity is used to ensure compliance with legislation. Enforcement services carry out inspections of premises on a routine, programmed basis and as a response to complaints and enquiries from the public about businesses and individuals. They also carry out education and intelligence-based activities. Some

enforcement services have officers patrolling the streets. Where non-compliance is discovered, options to seek/promote compliance include:

- Explaining legal requirements and, where appropriate, the means to achieve compliance
- Providing an opportunity to discuss points in issue where appropriate
- consideration of reasonable timescales to achieve compliance
- Service of advisory letters, warnings, statutory notices or prohibitions detailing non-compliance
- Enforcement actions including, but not limited to, seizure of documents or goods, closure of premises, caution, prosecution or injunction.

Enforcement actions

The decision to use enforcement action will be taken on a case by case basis and, to ensure consistency of approach, in accordance with this and any other more specific policies which may be relevant. The action taken, which may be immediate, will be proportionate to the gravity of the non-compliance. Factors that will be taken into consideration include, but are not limited to:

- The risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals
- Evidence that suggests that there was pre-meditation in the commission of an offence
- The alleged offence involves a failure to comply in full or in part with the requirements of a statutory notice or order
- There is a history of previous warnings/cautions, or the commission of similar offences
- Aggravated circumstances such as obstruction of an officer or aggressive behaviour towards the public
- The offence, although not serious itself, is widespread in the area where it is committed
- There has been reckless disregard of health and safety requirements
- False information has been supplied wilfully, or there has been an intent to deceive

Legal and Policy context

The Enforcement Concordat

Enforcement actions are taken within the context of a legal and policy framework. Council enforcement services will carry out their enforcement-related work with due regard to the Enforcement Concordat. This Concordat arises from a central government initiative and was adopted by the City Council in December 1998. The Concordat lays out the principles of good enforcement. These are:

- Publishing clear standards, setting out the level of service and performance that the public and businesses can expect to receive
- Dealing with the public and the business in an open and honest way
- Providing a courteous, efficient and helpful service
- Responding promptly and positively to complaints about the service
- Ensuring that enforcement action is proportionate to the risks to the public
- Carrying out duties in a fair, equitable and consistent manner

A full version of the Enforcement Concordat is available by visiting the Cabinet Office Web site at <http://www.cabinetoffice.gov.uk/reputation/DstlenfOrce/index.asp>.

Where a decision to prosecute is made, this decision will be taken in accordance with the Code for Crown Prosecutors, which details considerations to be taken into account before commencing prosecution proceedings. A full copy of the code is available from

The Crown Prosecution Service London
50 Ludgate Hill
London EC4M 7EX
Tel: 020 7796 8000
Web: <http://www.cps.gov.uk/Home/CodeForCrownProsecutors>

Enforcement decisions and actions will be made with due regard to the provisions of:

- The Human Rights Act
- The Crime and Disorder Act
- Equal rights and anti-discrimination legislation
- Service specific legislation
- All other relevant legislation applicable from time to time

If it is in the public interest, matters concerning non-compliance may be shared, where appropriate, with other enforcement agencies. Any such action will be undertaken in compliance with the Data Protection Act 1998.

Authorisation of Officers

Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action. Officers will also have sufficient training and understanding of this enforcement policy to ensure a consistent approach to their duties. Officers are required to show their authorisations on demand.

Enforcement services of the council are required to carry out their duties, including carrying out or escalating enforcement actions, in accordance with set procedures. These procedures vary depending on the service area involved in dealing with any non-compliance. Officers dealing with the public are required to identify which service area they represent and summaries of procedures applicable to service areas are available from the Director's office of each service.

Status and Review

The City Council's Cabinet adopted this policy on 16th June 2003, subject to the final approval of Councillor Alan Bradley, Cabinet Member for Community Protection. Councillor Bradley approved the policy on 7th July 2003.

This is a public document. Further copies of this and associated documents can be obtained from:

The Director's Office
Legal & Administrative Services
15th Floor City Hall
Victoria Street
London SW1 6QP
Tel: 020 7641 2718
e-mail: gblackwell@westminster.gov.uk

ENFORCEMENT CONCORDAT

The Principles of Good Enforcement:

Policy and Procedures

This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety.

We have therefore adopted the central and local government Concordat on Good Enforcement. Included in the term 'enforcement' are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.

Principles of Good Enforcement: Policy

STANDARDS

In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and businesses can expect to receive. We will publish these standards and our annual performance against them. The standards will be available to businesses and others who are regulated.

OPENNESS

We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary

organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

HELPFULNESS

We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice/information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

COMPLAINTS ABOUT SERVICE

We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained with details of the process and the likely time-scales involved.

PROPORTIONALITY

We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.

We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

CONSISTENCY

We will carry out our duties in a fair, equitable and consistent manner. While inspectors exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinating Body (LACOTS) and the Local Authority National Type Approval Confederation (LANTAC).

PRINCIPLES OF GOOD ENFORCEMENT: PROCEDURES

Advice from an officer will be put clearly and simply, and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale and making sure that legal requirements are distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide circumstances of the points of difference, unless immediate action is required (for example, in the interests of health and safety or prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action will be given at the time and confirmed in writing in most cases within 5 working days and, in all cases, within 10 working days.

Where there are on rights of appeal against formal action, advice the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

If you have any queries about this report, please contact Andrew Ralph on 0207 641 2706, email address aralph@westminster.gov.uk