



ENFORCEMENT POLICY

1. Aims and Objectives

This Enforcement Policy is intended to fairly and firmly enforce the legislation in a consistent and transparent manner, and in accordance with the four licensing objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm.

The Council recognises:

- the need to set clear standards and objectives for licensing enforcement;
- the need for clear and open provision of information about enforcement to all parties involved;
- the need for fairness and consistency when taking enforcement action;
- that, as far as possible, a minimum burden should be placed on business (consistent with the need to protect the public and the environment);
- that enforcement should include a whole range of indirect measures to secure compliance with legislation, including guidance and best practice, information, liaison and prevention, as well as direct enforcement action where appropriate;
- the purpose of most Local Authority enforcement should be to secure compliance; enforcement action should therefore always be proportionate and for the purpose of securing compliance;
- that where appropriate there must be co-ordination between departments of the Council (especially where joined up enforcement action takes place) and in some instances the Council must work with the support agencies or bodies. These agencies or bodies will include the Police, Fire and Rescue Service, Customs and Excise, Trading Standards, Child Protection, Health and Safety Executive, Security Industry Authority, Crown Prosecution Service etc. This will necessitate the sharing of information in relation to those persons involved in licensing and relevant premises based on the requirements of The Licensing Act 2003, Criminal Justice and Police Act 2001, Anti-Social Behaviour Act 2003, Criminal Justice and Public Order Act 1994, Crime and Disorder Act 1998 and other relevant legislation.
- the need to provide a well-publicised and accessible complaints procedure.

There are various statutory provisions that enable the Council to exchange relevant information with other bodies. These provisions will be used as appropriate.

This enforcement policy in no way restricts other regulatory bodies from carrying out enforcement under their own regulatory powers.

2. Licensing Visits

Council Officers will make licensing visits to premises, and may on occasions be accompanied primarily by the Police and or other regulatory agencies. Both the Council and the other relevant agencies firmly believe that working with businesses is the primary method to achieve the licensing objectives, but will take appropriate enforcement action if necessary.

The visiting regime for premises is not decided solely on a risk assessment basis. The Council will, as part of its' proactive stance, make regular visits to and in the vicinity of licensed premises in order to assess the impact of their operation on residents and other businesses in the area.

There will be a presumption that visits will take place when various crime or disorder or other indicators show that there are potential problems developing in relation to specific premises or areas.

The Council will monitor patron movement to, from and between premises and the provision and accessibility of transport to assist dispersal of persons away from licensed premises. The information gained from these monitoring exercises will assist in the development of the Council's Statement of Licensing Policy.

3. Enforcement Action

Sevenoaks District Council may use a variety of means, depending on particular circumstances, to ensure that owners, occupiers and proprietors of businesses meet their responsibilities including:

- education;
- advice;
- guidance;
- warning letters; and
- notices of prosecutions.

Enforcement action can include the following progressive approach to achieve compliance.

- Oral advice - *which **may** be documented*
- Written advice
- Verbal warning - *which **will** be documented*
- Written warning
- Statutory Notice
- Formal Caution
- Prosecution

The individual circumstances of the breach of the legislation will determine the level of enforcement.

Subject to investigation and evidence, the key factors in all decisions to enforce will also include:

- adherence to operating schedule;
- risk assessment;
- public safety;
- public interest;
- the history of the business / person concerned;
- the willingness of the business / individual to prevent a recurrence of the problem and the level of co-operation with Council Officers, Police and/or other agencies;
- the realistic prospect of conviction;
- nature and level of complaints;
- objectives of enforcement;
- alternative options (including mediation);
- policy implications;
- resources.

The Council will generally reserve prosecutions (and, therefore, criminal proceedings) for the more serious offences which either result or could have resulted in serious damage to the environment or ill health or which represented a blatant disregard of legislation.

Officers should always refer to the advice given in codes of practice, advice notes, guidance etc. (relevant to the legislation involved), and to that given in guidance from the Home Office and Crown Prosecution Service.

Formal Notices

It is appropriate to use formal notices broadly in three sets of circumstances:

- where there is no confidence that an informal approach will be successful, e.g. where there is a history of non-compliance with previous warnings or delayed compliance;
- where circumstances present a risk such that the position must be confirmed formally;
- where the legislation requires the service of a notice.

Prosecution

Prosecution will be appropriate in a number of different circumstances:

- where formal notices have not been complied with;
- where informal action has failed, either in the past or the present;
- where there has been negligence resulting in a contravention;
- where the risk presented by a situation or the contravention is so significant or serious that informal action would be inadequate;
- where in addition to a formal notice, punitive action would be justified;

However, there may be occasions where there is a presumption in favour of a prosecution, for example where the offence arises from particularly serious circumstances.

In the interests of consistency it is important that cases, which might lead to prosecution, are fully considered by the Licensing Manager, Head of Service and Legal section. This will include examination of papers and discussions.

In the case of a premises licence the Council or the Police may ask for a review.

Every action will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on its individual merits.

On conviction of a relevant offence Magistrates may endorse, suspend or revoke a Personal Licence.

Council Officers, Police or Crown Prosecutors may relating to such a conviction remind the Magistrates of their powers to endorse, suspend or revoke a Personal Licence.

Local Members, the appropriate Portfolio Holder (unless they indicate otherwise) and the Members of the Licensing Committee are to be notified of the existence of any formal action, normally by being sent copies of correspondence.

The Council takes a proactive stance towards the proper regulation of, and enforcement of, the provisions of this legislation.

The Council will normally take the lead on issues including:

- noise;
- production and display of relevant licences and documents;
- unauthorised licensable activities in relation to the provision of regulated entertainment;
- breaches of conditions of premises licences; and
- breaches of requirements under temporary events notices.

Other breaches of the Act will be dealt with either directly or jointly as indicated above. The Council will give full co-operation to any other agency in carrying out their investigations.

Officers from The Licensing Regime will also liaise with other enforcing authorities to ensure that, in cases, where more than one body has enforcement responsibility, the most effective course of action is chosen. This may involve, for example, agreement that one organisation should take the lead in the investigation and the other should assist or that each organisation should cover a separate aspect of the case.

4. Confidentiality and conflicts of interest

Officers enforcing the Sevenoaks District Council Enforcement Policy and Members of the Council must bear in mind the need to:

- maintain confidentiality in respect of information obtained and action taken when enforcing this policy.

Avoid possible conflicts of interest or, where this is not possible, notify the Licensing Manager / Head of Service as appropriate. The possibility of another Officer or another Member of the Council taking responsibility for a particular inspection or complaint must be considered where:

- the Officer / Member has a formal involvement or is active in an organization (e.g. a club);
- the Officer / Member is a friend or relative of a person involved with a business, premises etc.; or
- the Officer / Member has an involvement in a similar line of business or has business interests.

5. Data Protection Act

The Council will observe an individual's data protection rights in accordance with the Data Protection Act 1998, provided that personal data can be disclosed within the authority or to other enforcement agencies for the prevention or detection of crime.

6. Discrimination

The Council will ensure that it exercises all of its enforcement functions so as not to do any act which constitutes discrimination on the grounds of race, colour, ethnic origin, sex, or disability (save otherwise in accordance with the Law) and with due regard to the need to eliminate unlawful racial discrimination.

7. Complaints

How to contact the Council's Complaints Co-coordinator:

Telephone: 01732 227000
Email: feedback@sevenoaks.gov.uk
Write to: Complaints Co-coordinator
Sevenoaks District Council
FREEPOST SEA 6448
Argyle Road
Sevenoaks
Kent. TN13 1BR

Full details are available on Sevenoaks District Council's website:
www.sevenoaks.gov.uk

