Licensing Standards

Compliance and Enforcement

 Policy

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**Purpose of Enforcement**

Our Vision

* The public and trade are well informed about licensing law, regulations and this policy
* The trade are supported to achieve sustained compliance
* Effective relationships and two way communication
* The enterprise and innovation of responsible licence holders is encouraged by as “light touch” enforcement approach as is compatible with our regulatory functions
* Unlicensed and reckless traders are inhibited and disrupted by accurately targeted enforcement action.
* Citizens have the information they need to make informed choices and vulnerable citizens are protected from harm
* Citizens and licence holders can resolve disputes quickly and easily with mediation and support.

Our Mission

* For Licensing Standards Officers (LSO’s) to provide licence applicants and holders with valued advice on regulatory requirements
* For LSO’s to take effective action against unlicensed or reckless licensees to prevent, or minimise the harm caused by malpractice
* For LSO’s o ensure licensees practice within the conditions of their licence through monitoring and inspections

The Enforcement Concordat

 Moray Council has adopted the “Enforcement Concordat”, which sets out the Council’s commitment to the principals of good enforcement. “Enforcement” includes advisory visits and assisting with compliance as well as licensing and enforcement action.

* **Principles**

In consultation with partners and other relevant interested parties, including technical experts where appropriate, we will strive to achieve our aims and mission by carrying out our work in an open, helpful and proportional manner

* **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, 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 licence holders and applicants 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 licence applicants to seek advice /information from us and submit their applications in a timely manner. Consultation responses for approval of establishments, licences, registrations, etc., will be dealt with efficiently and promptly and within statutory timescales. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated with partners to minimise unnecessary overlaps and time delays. …and we will try to be considerate re timing of visits although note that this may not always be possible or practicable.

* **Proportionality**

We will minimise the costs of compliance for licence holders by ensuring that any action we require is proportionate to the risks. As far as the law allows and our need to ensure consistency, 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 LSO’s are expected to exercise judgement in individual cases, we will have policies and guidance in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies.

* **Equalities**

We will monitor our impact on people with different needs and use it to improve the way we carry out our work. We work to ensure that no group or individual is unfairly treated and take account of equalities issues and needs.

 **Enforcement Procedures**

Scope

1. These procedures cover the enforcement of both Civic and Liquor & Gambling Licensing legislation; including enforcement visits, investigation of alleged breaches or unlicensed practices, advice to licence holders and applicants.

General

1. Enforcement effort is to be risk based and targeted, using intelligence from complaints, results of previous enforcement activity, information from other enforcement agencies and other sources.

Staff Competence

1. Officers will only take on tasks they are competent to perform. All staff will participate in the Council’s Employee Review and Development Programme. This ensures that the performance of officers is monitored and they are properly equipped to carry out their enforcement functions. Staff will also participate in appropriate and relevant training opportunities when these arise.

Licensing Advice

1. Licence application advice is available through the Licensing pages of the Moray Council website and from the Licensing Standards Officers. Please note that this is not legal advice, and you should obtain advice from an independent legal source if required. <http://www.moray.gov.uk/moray_section/section_103026.html>

Licensing Risk Assessment

1. All licences which are subject to inspection, are risk assessed as high, medium or low risk using criteria including compliance checks by other agencies, area of business, complaints or interaction from the public, outstanding actions from previous inspections or visits

Performance

1. Performance is reported on the Moray Council website at:-
	1. <http://www.moray.gov.uk/moray_standard/page_40047.html>

and via the Council’s corporate public performance report.

Inspections

1. Licensing carry out a programme of both planned and unannounced inspections. Licensing Standards Officers offer advice and assistance to help licence holders comply with their requirements during inspection visits. These visits may be done with other partners such as Police Scotland, Environmental Health or Scottish Fire and Rescue.
2. Officers are given powers of entry, inspection and seizure under a variety of statutes. Persons should not attempt to stop an officer who is properly exercising any of these powers; as such action may be an offence. In general an authorised officer can:-
	1. Enter any premises at all reasonable hours
	2. Inspect goods
	3. Inspect documents
	4. Seize and remove when it is believed an offence has been committed
	5. Direct that a premises or vehicle , or anything with, are left undisturbed
3. In the course of an inspection, licence holders can expect:-
	1. To be shown all due courtesy
	2. To be informed of the purpose of the visit
	3. To be shown photographic identification
	4. To be given advice
	5. To receive feedback on compliance levels
	6. To be given guidance on the regulations
	7. To be given advice on any action required to remedy any points of non-compliance
	8. To receive reasonable time to take remedial action

Enforcement Action

1. Enforcement action includes reports, letters and statutory notices. Where joint enforcement is applicable it may also include reports to Procurator Fiscal. Action taken will be proportionate to the scale of the identified problem and to other relevant factors, including:-
	1. The public interest
	2. Significant contraventions to the licence conditions
	3. Previous correspondence on the issue or where there is a history of similar contraventions
	4. Wilful breach of legislation or failure to comply in full or in part with requirements of notice
2. Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or to prevent evidence being destroyed).
3. Where immediate action is considered necessary, an explanation of why such action was required 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.
4. Advice from an officer will be put plainly and simply and confirmed in writing, explaining why any remedial work is necessary and over what time scale, and be clear that legal requirements are clearly distinguished from best practice advice.
5. All statutory notices, reports, reports, letters and formal warnings will be followed up to ensure the required remedial action has been taken.

**Complaints about the Service**

1. The Council’s Complaints procedure will be followed.

**Contacts**

Licensing Team – 01343 563027 or by email at licensing@moray.gov.uk

Licensing Standards Officers - Joanne Larsen and Emma Rapley – 01343 563030 or by email at LicStandardsOfficers@moray.gov.uk

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