



Licensing Enforcement Policy

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Lead Member/Relevant Portfolio Holder	Councillor Margaret Glancy - Portfolio Holder for Governance, Environment and Regulatory Services (Deputy Leader)

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	N/A
Exempt Information:	No
Key Decision:	Yes c) Has significant impact on two or more wards in the Borough and on communities living or working in those areas
Subject to call-in:	Yes

1 Summary

- 1.1 The Council exercises a wide range of licensing powers across numerous pieces of legislation, many of which contain enforcement provisions where licensable activities are carried on, with or without licences.
- 1.2 The Licensing Enforcement Policy sets out the principles the Council will follow when considering any enforcement action and contains guidance for licensed businesses and persons affected by such businesses on how the Council will exercise our legal powers. It also brings together expectations created under various local polices, codes of practice and statutory guidance, which will also considered when exercising our powers.
- 1.3 The purpose of this report is to seek approval for the adoption of a Licensing Enforcement Policy that will help the Council in managing the various licensing functions in a consistent, effective, transparent, and compliant way.

2 Recommendations

That Cabinet:

- 2.1 **Approves the Licensing Enforcement Policy for adoption and publication on the Council's website.**
- 2.2 **Delegates Authority to the Director for Growth and Regeneration (in consultation with the relevant Portfolio Holder) to make any minor changes arising from Government guidance or business environment.**

3 Reason for Recommendations

- 3.1 'Delivering sustainable and inclusive growth in Melton' is a key corporate priority for the Council. The licensing function is an important tool available to the Council in achieving this priority.
- 3.2 The principles of any licensing regime are to protect the public, either directly or indirectly. An effective licensing enforcement regime ensures that any licensable activity complies with the relevant legislation and is duly authorised, and any necessary conditions are in place to manage the activities taking place.

4 Background

- 4.1 We recognise that most businesses and individuals want to comply with the law. We will, therefore, carry out our enforcement activities in a firm but fair way, taking care to help businesses and individuals meet their legal obligations without unnecessary burden.
- 4.2 However, it is recognised that where necessary, appropriate enforcement action may be required to maintain 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.
- 4.3 The Licensing Enforcement Policy has been developed in line with the regulatory principles set out in the Legislative and Regulatory Reform Act 2006. The policy 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 by improving the outcomes without imposing unnecessary burdens.
- 4.4 An audit of licensing function was undertaken during 2022/23 by the internal audit team which identified the risk "Failure to take action to educate and enforce licensing legislation where non-compliances have been identified or are likely to occur". A robust Licensing Enforcement Policy mitigates against this risk by clearly setting out all the considerations required by officers involved with any licensing enforcement action and ensure that all relevant factors are considered prior to any enforcement and all appropriate approval is obtained before action is taken.

5 Main Considerations

- 5.1 The Licensing Enforcement Policy is necessary to set out how the Council undertakes its enforcement duties using the powers that it has available to it.
- 5.2 The policy covers the following details:
 - Enforcement principles,

- How enforcement complaints can be made to the Council (including the minimum requirements) and what response timeframes complainants can expect.
- When we will and will not take enforcement action,
- The legislative requirements,
- How we prioritise licensing complaints or evidence of non-compliance,
- Enforcement options, including the decision-making process for appropriate enforcement.
- Powers / Notices that are available to the Council to take enforcement action.

5.3 The Policy will provide clarity to:

- All stakeholders regarding the Council's approach and process in dealing with alleged licensing non-compliance.
- Complainants regarding how to complain and who to approach regarding identified or suspected non-compliance.
- Individuals and businesses regarding what actions Council would take.
- All stakeholders regarding options available to the Council and types of actions that could be taken in specific circumstances.
- All stakeholders regarding what can be dealt with by this policy and what is excluded.
- Council officers regarding process to follow and how to prioritise workload.
- Councillors regarding performance of the enforcement function

6 Options Considered

- 6.1 Not create and approve a Licensing Enforcement Policy – this is not considered a viable option as the policy supports the enforcement process, by providing clarity to all stakeholders and officers of the Council on what is expected without having additional burdens to businesses. In addition, the development of a Licensing Enforcement Policy is an audit recommendation.
- 6.2 Approve the Licensing Enforcement Policy – Whilst it is not a statutory requirement to have a Licensing Enforcement Policy, such a document demonstrates the Council's compliance with the Regulators Code made under the Legislative and Regulatory Reform Act 2006. The policy assists residents, business and users of licensed premises in understanding how the Council undertakes its enforcement duties, and the service that can be expected. The approval of the policy will also demonstrate compliance with the recent audit recommendation.

7 Consultation

- 7.1 This policy has been prepared in consultation with licensing and legal officers in the Council and The Portfolio Holder for Governance, Environment and Regulatory Services and the Chair of the Licensing Committee.
- 7.2 Officers have also met with members of the Licensing Committee informally to discuss the draft policy. Comments and feedback from all of the consultations have been included in the final draft Licensing Enforcement Policy.

8 Next Steps – Implementation and Communication

- 8.1 Following approval, the Policy will be uploaded to the website, and customers will be referred to it so that they can understand the processes and procedures we have in place to deal with non-compliance with licensing legislation.

9 Financial Implications

- 9.1 There are no financial implications associated with this decision however having an approved enforcement policy which clearly sets out the principles behind enforcement, reduces the risk of successful challenge of enforcement action.

Financial Implications reviewed by: Director for Corporate Services

10 Legal and Governance Implications

- 10.1 Local Licensing Authorities have powers within various legislation to administer licenses and investigate alleged unlicensed activity or breaches of licensing conditions and have powers to remedy proven non-compliance by statutory and other means.
- 10.2 The Licensing Enforcement Policy sets out the principal legislation for the various licensing functions. There are also considerations within national guidance and local policies (Taxi and Private Hire Policy, Statement of Principle for Licensing Policy and The Gambling Act Statement of Principles) that are reflected within the Policy.
- 10.3 Other statutory provisions may be engaged depending on the particular case (e.g. the Human Rights Act 1998 and the Equalities Act 2010) and reference is made within the Policy.
- 10.4 It is good practice to have a licensing enforcement policy in place to govern and explain and how decisions will be made.

Legal Implications reviewed by: Interim Assistant Director for Governance & Democracy (Monitoring Officer)

11 Equality and Safeguarding Implications

- 11.1 An Equalities Impact Assessment has been undertaken during the development of the policy.
- 11.2 There are no equality and safeguarding implications of the proposed policy.

12 Data Protection Implications (Mandatory)

- 12.1 A Data Protection Impact Assessment (DPIA) has not been completed for the following reasons:
- Licensing enforcement complaints are confidential – the Council does not share the details of the person making the complaint unless by agreement but does require the person making the complaint to give their details.
 - Through Information Sharing Agreements and in line with the requirements of the Regulator’s Code, from time to time we may share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including:
 - Government Agencies
 - Police Forces
 - Fire Authorities

- Statutory undertakers
- National Anti Fraud Network (NAFN)
- Other local authorities.

13 Community Safety Implications

13.1 The principles of licensing enforcement support the prevention of crime and to protect the health, safety and welfare of users of licensable premises and those that are affected by them.

14 Environmental and Climate Change Implications

14.1 Whilst there are no direct impacts on the Environment or Climate Change implications with the Licensing Enforcement policy, individual licensing policies such as the Taxi and Private Hire Policy supports local environmental initiatives by offering a reduced licence fee for low emission vehicles.

15 Other Implications (where significant)

15.1 None

16 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	The Policy is not approved and therefore the Council continues to have no formal Licensing Enforcement Policy.	Very Low	Critical	Medium Risk
2	The policy is not followed by officers leading to legal challenges, complaints and appeals	Low	Critical	Medium Risk
3	Policy does not align with the national legislation exposing the council to the risk of non-compliance	Very Low	Critical	Medium Risk
4	Matters arise that are not included within the policy	Low	Critical	Medium Risk
5	Policy is silent in key areas leading to confusion or miss-interpretation	Low	Critical	Medium Risk

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				

3 Low		2,4,5		
2 Very Low			1,3	
1 Almost impossible				

Risk No	Mitigation
1	Adopt and publish the proposed Licensing Enforcement Policy.
2	There are performance indicators and quality assurance measures in place to monitor effective implementation of the policy.
3	The policy has been prepared in line with the current legislation and guidance.
4	Delegated authority is requested to make minor amendments if gaps are identified or new guidance is received. A monitoring mechanism is in place to keep the policy refreshed and reviewed.
5	This policy covers a range of licencing areas. Detailed guidance and procedure notes will be prepared to support the operation and implementation of the policy.

17 Background Papers

17.1 None

18 Appendices

18.1 Appendix 1 – The Licensing Enforcement Policy

18.2 Appendix 2 – Equalities Impact Assessment – Licencing Enforcement Policy