

Section 13 Enforcement and reviews

- 13.1 The Licensing Act contains measures to ensure that the council, and responsible authorities, are able to deal with premises that wilfully and persistently undermine the licensing objectives. The council and responsible authorities are committed to encouraging a thriving day time and night time licensed economy but will not tolerate those premises whose activities break the law or infringe upon the quality of life for local residents and businesses.
- 13.2 The council has established a multi-agency enforcement protocol which sets out the framework for the risk based enforcement of the Licensing Act 2003 following the principles of better regulation advocated by the Department for Business, Energy and Industrial Strategy (BEIS). The protocol allows for carrying out of joint inspections with the police, the fire authority and other relevant agencies.

Prosecution of breaches

- 13.3 In accordance with the enforcement protocol, the council adopts a multi-agency approach to the prosecution of offences under the Licensing Act.
- 13.4 Consideration will be given to the appropriate powers that should be used to address a problem where other agencies such as the police, fire authority, environmental protection, environmental health and trading standards also have their own powers.
- 13.5 The council has adopted the principles of the Hampton Report in its enforcement concordat. Formal enforcement will be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 13.6 The council has a zero tolerance to antisocial behaviour and environmental crime.

Reviews of Licences

- 13.7 The council recognises that the ability of the police, other responsible authorities and other people to apply for a review of a premises licence.
- 13.8 On receipt of a relevant request to carry out a review the council has a range of options available to it under the Act. These include:
- To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily)
 - To exclude a licensable activity from the scope of the licence (permanently or temporarily)
 - To remove the Designated Premises Supervisor
 - To suspend the licence for a period not exceeding three months
 - To revoke the licence
- 13.9 The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the

problems involved.

- 13.10 The council has agreed protocols with responsible authorities and published guidance on the review process which is available from the Licensing team.
- 13.11 Where a Magistrates Court makes a Closure Order under part 8 of the Licensing Act 2003 (on grounds of disorder) the council must carry out a review of the licence.
- 13.12 Where a Magistrates Court makes a Closure Order under the Anti-Social Behaviour, Crime and Policing Act 2014 (on grounds of the use, supply or production of Class A drugs associated with disorder or serious nuisance) the police will usually ask the council to carry out a review of the licence.
- 13.13 Where a closure order has been made under the Anti-Social Behaviour, Crime and Policing Act 2014 (on grounds of noise) the council's Environmental Health section will normally request a review of the licence.
- 13.14 Where any agency provides evidence of the keeping of smuggled goods, such as counterfeit alcohol or tobacco, or the employment of persons who do not possess the right to work in the UK, the relevant agency may request a review of the premises licence.

Matters to be considered

- 13.15 When considering a review request or the possibility of enforcement action the council will take into account use of the premises for criminal activities such as the supply of drugs or money laundering
- failure to promptly respond to a warning properly given by a responsible authority
 - failure to engage with the RAs in an effective manner
 - previous convictions for licensing offences
 - previous failure to comply with licence conditions

Summary reviews

- 13.16 The Violent Crime Reduction Act 2006 amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.
- 13.17 A power to carry out summary reviews in serious cases of crime and disorder is brought in at section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the Licensing Authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.

Immigration Act 2016

- 13.18 The Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to

prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

- 13.19 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 13.20 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:
- 13.21 Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
- 13.22 Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
- 13.23 Immigration offences, including civil penalties, are 'relevant offences' as defined by the 2003 Act;
- 13.24 The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.
- 13.25 The Licensing Authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.
- 13.26 The Licensing Authority will also work in partnership with the Home Office (Immigration Enforcement) and Dorset Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

Public Space Protection Order (PSPO)

- 13.27 Public Space Protection Orders were introduced in October 2014 by the Anti-social Behaviour, Crime and Policing Act 2014. They are designed to deal with a particular nuisance or problem in a specific area (a public place) that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure public places can be enjoyed by all and kept free from anti-social behaviour (ASB).

- 13.28 A PSPO can cover multiple restrictions, so one order can prohibit several activities such as the drinking of alcohol and dog fouling. Enforcement will be undertaken by authorised officers, with the support of police officers.
- 13.29 If anyone breaches the requirements of the PSPO, or fails to comply with a request from an authorised officer or Police Officer to cease the prohibited activity, they would be committing a criminal offence and may be issued a Fixed Penalty Notice of £100 or upon conviction a fine of up to £1000.
- 13.30 There is a current PSPO designated area for alcohol consumption in Weymouth. Full details of the Public Spaces Protection Order 2018, and related Schedules, (detailing the restricted areas), can be found here: <https://www.dorsetcouncil.gov.uk/your-community/community-safety/anti-social-behaviour/anti-social-behaviour-in-the-weymouth-and-portland-area.aspx>