

LICENSING ACT 2003

LICENSING JOINT ENFORCEMENT PROTOCOL SIGNED BETWEEN

LICENSING AUTHORITIES

1. ALLERDALE BOROUGH COUNCIL
2. BARROW BOROUGH COUNCIL
3. CARLISLE CITY COUNCIL
4. COPELAND BOROUGH COUNCIL
5. EDEN DISTRICT COUNCIL
6. SOUTH LAKELAND DISTRICT COUNCIL

RESPONSIBLE AUTHORITIES

7. CUMBRIA ENVIRONMENTAL HEALTH DEPARTMENTS
8. CUMBRIA CONSTABULARY
9. CUMBRIA FIRE & RESCUE SERVICE
10. CUMBRIA COUNTY COUNCIL TRADING STANDARDS

1. The above statutory organisations are the Parties to this Protocol.
2. Under the Licensing Act, licensing authorities have a duty to promote the licensing objectives of preventing crime and disorder; protecting public safety; preventing public nuisance; and protecting children from harm in relation to licensable activities under the Act.
3. Each Party has enforcement responsibilities in relation to licensed premises and recognise the importance of effective co-operation and liaison to ensure premises licence holders; designated premises supervisors; personal licence holders; and club premises certificate holders understand and comply with the law. This may be achieved through joint meetings or seminars.
4. This Protocol sets out the steps that have been agreed to achieve that aim.
5. Enforcement
From time to time, joint inspections will be carried out by the licensing authority's licensing enforcement officers and officers from the relevant responsible authority.

6. Joint inspections will be conducted on the basis of a risk assessment applied to all licensed premises, or in response to a specific complaint. Responsibility for deciding on a joint inspection will rest with the responsible authority with the expertise for dealing with the complaint in question, for example the environmental health authority will make decisions based on preventing nuisance (such as noise, odour, fly tipping or waste provision) or the appropriate responsible authority will decide on issues affecting public safety.

7. Offences

The Parties agree that prime responsibility for enforcing the offences under the Act should lie with:

Section	Offence	Authority	Lead Prosecutor
33	Notification of change of name or address by premises licence holder or designated premises supervisor	Licensing Authority	Licensing Authority
40	Premises licence holder failing to notify designated premises supervisor of variation to premises licence	Licensing Authority	Licensing Authority
41	Failure to send premises licence to licensing authority upon removal of designated premises supervisor	Licensing Authority	Licensing Authority
49	Failing to notify designated premises supervisor of grant of interim authority notice	Licensing Authority	Licensing Authority
56	Failure to provide premises licence to be updated	Licensing Authority	Licensing Authority

Section	Offence	Authority	Lead Prosecutor
57	Failure to secure safe custody or display on premises of premises licence	Licensing Authority	Licensing Authority
59	Obstructing inspection of premises before grant of a premises licence	Licensing Authority	Licensing Authority
82	Notification of change of name or alteration of rules of a club	Licensing Authority	Licensing Authority
83	Change of relevant registered address of club	Licensing Authority	Licensing Authority
93	Failure to provide club premises certificate to be updated	Licensing Authority	Licensing Authority
94	Duty to keep and produce club premises certificate	Licensing Authority	Licensing Authority
96	Inspection of premises before grant etc of club premises certificate	Licensing Authority	Licensing Authority
108	Right of entry when temporary event notice may be given	Licensing Authority /Police	Licensing Authority/Police
109	Failure to display temporary event notice on premises	Licensing Authority	Licensing Authority
123	Duty to notify licensing authority of convictions during application period	Licensing Authority	Licensing Authority
127	Duty to notify change of name or address	Licensing Authority	Licensing Authority

Section	Offence	Authority	Lead Prosecutor
128	Fail to notify court of personal licence	Licensing Authority/Police	Licensing Authority
132	Licence holder failure to notify Licensing Authority of conviction	Licensing Authority	Licensing Authority
135	Licence holder's responsibility to produce licence on request	Licensing Authority/Police	Licensing Authority/Police
136	Unauthorised licensable activities	Licensing Authority/Police	Licensing Authority/Police
137	Exposing alcohol for unauthorised sale	Licensing Authority/Police	Licensing Authority/Police
138	Keeping alcohol on premises for unauthorised sale	Licensing Authority/Police	Licensing Authority/Police
140	Allowing disorderly conduct on licensed premises	Licensing Authority/Police	Police
141	Sale of alcohol to person who is drunk	Licensing Authority/Police	Police
142	Obtaining alcohol for a person who is drunk	Licensing Authority/Police	Police
143	Failure to leave licensed premises	Police	Police
144	Keeping smuggled goods	Police/Customs & Excise	Police/Customs & Excise
145	Unaccompanied children prohibited from certain premises	Licensing Authority/Police	Licensing Authority/Police

Section	Offence	Authority	Lead Prosecutor
146	Sale of alcohol to children	Licensing Authority/Police/Trading Standards	Police/Trading Standards
147	Allowing the sale of alcohol to children	Licensing Authority/Police/Trading Standards	Police/Trading Standards
148	Sale of liqueur confectionary to children under 16	Licensing Authority/Police/Trading Standards	Police/Trading Standards
149	Purchase of alcohol by or on behalf of children	Licensing Authority/Police/Trading Standards	Police/Trading Standards
150	Consumption of alcohol by children	Licensing Authority/Police/Trading Standards	Police
151	Delivering alcohol to children	Licensing Authority/Police/Trading Standards	Police
152	Sending a child to obtain alcohol	Licensing Authority/Police/Trading Standards	Police

Section	Offence	Authority	Lead Prosecutor
153	Prohibition of unsupervised sales by children	Licensing Authority/Police/ Trading Standards	Licensing Authority/Police
156	Prohibition on sale of alcohol on moving vehicles	Police	Police
158	False statements made for the purposes of the Act	Licensing Authority	Licensing Authority
179	Intentionally obstruct entry to an authorised person	Relevant Responsible Authority	Relevant Responsible Authority

8. Investigation of offences

When a responsible authority has become aware of an offence and would like another more appropriate responsible authority to take formal action, they will take the following steps:

- (1) early discussions with the appropriate responsible authority, including (unless in cases of extreme urgency) the licensing authority's enforcement officer
- (2) supply the relevant responsible authority in a timely manner all of the relevant evidence (whether subsequently used or unused)
- (3) set out in writing details of the offence and request that the relevant responsible authority take action.

9. Once in receipt of a written request to take action the appropriate responsible authority will:

- (1) assess the facts and take appropriate action in accordance with the relevant enforcement Protocol for that service. Each case will be dealt with on its own merits. The responsible authority will, unless immediate action is required, assess what action is necessary within a maximum of 14 working days of receipt of the complaint.

(2) inform the responsible authority that initiated the complaint of the action taken.

10. Regular monthly liaison meetings will take place between the licensing officer and the local police licensing officer.

11. Each licensing authority will be responsible for determining what other consultative arrangements it wishes to make for consulting with other responsible authorities on the understanding that consultation will take place at least once a year.

12. Mutual assistance

Each licensing authority in the Cumbrian authorities employs officers specifically engaged to conduct enforcement and inspection duties under the Licensing Act. Each responsible authority agrees to nominate an officer as a point of contact for other authorities.

13. Responsibility for prosecutions

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

- (1) a licensing authority,
- (2) by the Director of Public Prosecutions, or
- (3) by a local weights and measures authority for offences under section 146 or 147.

14. It is expected under this Protocol that the licensing authorities, police, and the weights and measure authority, will separately bring proceedings (including the issue of formal cautions) as a result of offences that they have investigated. Section 7 of this protocol indicates who would be expected to be the lead prosecutor.

15. Record of cautions, notices etc

Each licensing authority will maintain a record of formal cautions, orders or notices issued to holders of licences, certificates or permissions under any relevant legislation.

16. Notification of prosecutions and cautions

Notwithstanding the duty of the court in section 131 (duty to notify licensing authority of convictions) the appropriate prosecuting authority will inform the relevant licensing authority within five working days of any conviction or caution under the Act.

17. The relevant licensing authority for these purposes is the licensing authority that issued the licence, certificate or permission even if not a party to this Protocol.

18. The notification shall be in writing and shall state:

- (1) the name and address of the person convicted or cautioned
- (2) the nature and date of the conviction or caution and
- (3) the details of any conviction including any order under section 129 of the Act.

19. Applications for licence reviews

This Protocol recognises the right of any responsible authority to apply to the licensing authority for a licence or club premises certificate to be reviewed at any time.

20. The responsible authority seeking a review will be expected to:

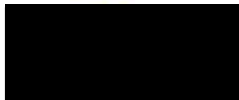
- (1) give an early indication to the licensing authority of the events requiring an application
- (2) seek an informal resolution to the matter if possible or appropriate
- (3) be able to demonstrate to the licensing committee hearing the application for a licence review that alternative approaches to dealing with the situation leading to the application have first been attempted, or such action has been considered and the reason why such a course of action was not deemed appropriate.

21. Data protection and exchange of information

Section 29 and schedules 2 & 3 of the Data Protection Act 1998 allows for the exchange of information for the purposes of the prevention of crime or the apprehension of offenders.

22. Section 115 of the Crime and Disorder Act 1998 allows for information to be specifically exchanged between the police and the licensing authorities.
23. Parties to this Protocol may disclose information to other Parties for these purposes providing that the local Protocols applicable to each organisation for data protection are observed. Every request for information under the Act must be made in writing giving reasons why disclosure is necessary.
24. Information supplied must only be used for the purpose for which it is obtained, must be securely retained whilst in the possession of the responsible authority that has requested it, and must be securely disposed of when no longer required. It must not be further transmitted to a third party without the consent of the original authority that supplied the information.
25. This part of the Protocol may be supplemented by any Memorandum of Understanding on data exchange agreed either at a local or national level.

Signed:



Authority:

Allerdale Borough Council

Date:

Position:

DIRECTOR CORPORATE SERVICES

Signed:



Authority:

Barrow Borough Council

Date:

22 May '06

Position:

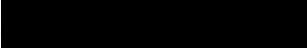
CEHO

Signed: 
Authority: Carlisle City Council
Date:

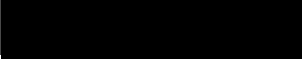
Position: Director of Legal & Democratic Services

Signed: 
Authority: Copeland Borough Council
Date: 12/07/06

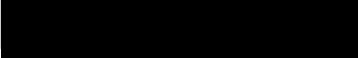
Position: Legal Services Manager

Signed: 
Authority: Eden District Council
Date: 1 MARCH 2006


Position: CHAIRMAN
LICENSING COMMITTEE

Signed: 
Authority: South Lakeland District Council
Date: 16 MARCH 2006

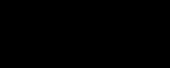
Position: LICENSING
MANAGER

Signed: 
Authority: Chief Constable of Cumbria Constabulary
Date: 7th APRIL 2006.

Position: A/Sec.

Signed: 
Authority: Cumbria Fire and Rescue Service
Date: 7 November 2006

Position: ASSISTANT CHIEF
FIRE OFFICER

Signed: 
Authority: Cumbria County Council Trading Standards
Date: 5th September 2006

Position: HEAD OF TRADING STANDARDS