

# LICENSING ACT 2003

## SOUTH HOLLAND DISTRICT COUNCIL

### Enforcement Protocol

This protocol formalises the enforcement arrangements for the Licensing Act 2003, in respect of South Holland District Council and its enforcement partners. In addition it provides guidance regarding the legal requirements and operational procedures.

### THE PROTOCOL REFERS TO THE FOLLOWING BODIES:

South Holland District Council  
Lincolnshire Police  
Lincolnshire Fire and Rescue Service  
Lincolnshire County Council Trading Standards  
Lincolnshire Area Child Protection Committee

November 2006

SOUTH HOLLAND DISTRICT COUNCIL Enforcement Protocol –  
November 2006

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## INTRODUCTION AND PURPOSE

The purpose of this protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues. It seeks to detail the role of each agency in promoting the licensing objectives.

Under the Licensing Act 2003, the licensing authority and the responsible authorities, as defined in the Act, are required to promote the following objectives, in relation to premises and people licensed under the Act:

- preventing crime and disorder
- protecting public safety
- preventing public nuisance
- protecting children from harm

In detecting and prosecuting offenders, law enforcement agencies make a vital contribution to the improvement of society as a whole. In addition, the sharing of information provides a sound basis for instigating and supporting enforcement and prosecution of offenders, where justified.

The Government strongly recommends that all licensing authorities establish protocols on enforcement issues. The principal relationship that needs to be defined relates to that between the Police and the Licensing Authority, as it is only these bodies, which are charged with the powers to prosecute for breaches of the Licensing Act 2003. However, Responsible Authorities have a statutorily defined role, a role that frequently overlaps between agencies, including the ability to make representations to the Licensing Authority. The role of these agencies is also defined within this protocol.

Within this protocol the terms Local Authority and Licensing Authority are very carefully selected as there is a clear distinction in the Licensing Act between the role of the Licensing Authority and that of the Local Authority. The Licensing Authority has responsibility for breaches of The Licensing Act 2003 and licence conditions. The Licensing Authority has a number of enforcement responsibilities under other primary legislation and will act as the relevant enforcing authority in those areas.

South Holland District Council has adopted the Government's Enforcement Concordat which is designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner. This enforcement protocol is based on the principles of the Enforcement Concordat and will be used when the Licensing Authority is considering taking formal action in respect of the Licensing Act 2003. Responsible bodies, however, will refer to their own enforcement policy.

The Enforcement Concordat is based on the principles that businesses should:

- receive clear explanations from enforcers of what they need to do and by when;
- have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- receive an explanation of their rights of appeal

A copy of the Enforcement Concordat is reproduced at Appendix 7.

All signatories to this protocol recognise the interests of both citizens and businesses and will work closely, with other agencies, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.

The parties recognise that voluntary disclosure of information, on a case-by-case basis, will be made provided there is a fair and lawful basis for disclosure.

#### AIM OF THIS PROTOCOL:

The aim of the enforcement protocol is to clearly establish the roles played principally by each enforcement agency, that is:

- The Licensing Authority
- Lincolnshire Police
- Lincolnshire Fire and Rescue Service
- Environmental Health Function
- Health and Safety Executive
- Lincolnshire County Council Trading Standards
- Lincolnshire Child Protection Agency (the local child protection representative)
- Other enforcement agencies as appropriate (e.g. customs and excise)

The protocol seeks to establish the roles of the agencies detailed above in relation to:

- inspecting premises for compliance with the relevant licence
- investigating complaints regarding non-compliance
- making representations and seeking reviews
- initiating proceedings for offences under the Licensing Act 2003

This protocol seeks to establish good working relationships between the enforcement agencies. All parties recognise the importance of effective co-operation and liaison to ensure those with responsibilities under the Licensing Act 2003 understand and comply with the law.

The aim of this protocol is to comply with the Secretary of State's guidance to local authorities, which states:

"As part of their statement of policy, the Government strongly recommends that licensing authorities should express the intention to establish protocols with the local police on enforcement issues. This would provide for a more efficient deployment of licensing authority staff and police officers that are commonly engaged in enforcing licensing law and the inspection of licensed premises."

In particular, these protocols should also provide for intelligence led enforcement in dealing with identified high-risk premises, which require greater attention, while providing minimal enforcement of low risk premises that are well run. Under the previous licensing regimes, the limited validity of public entertainment, theatre, cinema and late night refreshment house licences led to a culture of annual

inspections regardless of whether the assessed risks made such inspections necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. The principle of risk assessment and intelligence led enforcement should prevail. Inspections will be undertaken when and if they are judged necessary. This should ensure that resources are more effectively targeted; according to need.

## PRINCIPLES

The parties to this protocol agree to:

- Take note of the spirit of cooperation and goodwill that exists between each organisation.
- Recognise the benefits to be derived from developing close working relationships.
- Seek to enhance the understanding of the advantages and opportunities which joint activity can bring to effective law enforcement and community safety.
- Promote and improve the legitimate exchange of information and operational cooperation in support of shared objectives.

Each party to this protocol undertakes to;

- ensure that it complies with all the relevant legislation, this protocol and its internal policies on disclosure
- regularly consult with each other upon matters of policy and strategy
- ensure that the information it holds is as accurate and, where necessary, up to date

Partners are expected to draw upon their own legal advice, wherever necessary.

Information disclosed by any party must be kept secure by the partner to whom it has been provided. Each party must be satisfied that adequate arrangements are in place and that those parties have sufficient guarantees to protect the confidentiality and security of the information requested prior to a disclosure.

## LIAISON ARRANGEMENTS:

It is likely that regular contact will be established between the agencies. This contact is expected and encouraged to be regular and, if necessary, formalised.

Liaison between the partners to this protocol will;

- Provide an avenue to the appropriate channels of information.
- Provide a consistent approach to communication, operations and investigations.
- Encourage early contact and liaison in specific cases.
- Allow for advice or guidance to be given in relation to a specific case.
- Ensure that any other national or regional campaigns or investigations, which may have a bearing on the district, are considered.
- Enable relevant officers to be kept informed of the progress of cases that are being investigated.

- Ensure that information and intelligence being passed between the agencies is dealt with confidentially and processed in accordance with the terms of this protocol and legislation, and supports the understanding of mutual benefits.

Each enforcement agency should nominate a Liaison Officer (and a deputy) to initially be the contact point regarding any matters relating to licensed premises. The role of these officers will be:

- to ensure the effective exchange of information between the agencies
- the consideration of the necessity for joint visits
- the implementation of co-ordinated actions, as necessary and as agreed between the agencies
- to co-ordinate the supply of evidence and information to another agency taking formal action
- to forward complaints, evidence or information to the most appropriate agency to take action
- the initial contact to discuss and liaise in the event of uncertainty over lead agency roles

In each of the above cases, the agencies will have regard to the seriousness of the matter to be referred on and will select the communication method accordingly. In addition, the matter will be confirmed in writing, where necessary.

Appendix 3 sets out the communication points between the parties and their contact details.

There is a clear need for good communication and liaison. In particular, where the lead authority dealing with the premises identifies the need for a 'case conferences', other responsible authorities will support the lead authority to gather all views in preparation for review of licence. The lead authority will be expected to co-ordinate such case conferences.

There may be occasions where a partners' assistance is sought in respect of the investigation of an offence, or in future planned targeted action. By working together partners should be able to achieve more wide reaching results.

In the case of joint operations, the following points should be agreed

- Identify the roles and responsibilities of each partner.
- Detail the resources required.
- Explain the objectives and expected outcomes.
- Comment on the timescale to achieve them.
- Identify the central point for coordination.
- A method of formally recording the findings of the operation, as it relates to each agency in one document and an agreed means of storage of that document
- The protocol for the use of technical equipment used to support the operation e.g. video camera
- The outcome of any risk assessment

If required, the above should be confirmed in writing.

In planning joint operations both parties must ensure that they are compliant with current legislation to which they are bound. If there is any doubt about the legality of an operation by either party it must be halted and advice sought from the initiating parties' senior representative.

Parties understand that there may be other organisations involved in an operation that have not signed this protocol. In these instances the signatories will ensure that principles of this protocol are adhered to by those other agencies.

Other liaison arrangements will exist for specific tactical enforcement measures, such as for sales of alcohol to persons underage. With regard specifically to underage sales, reference will be made to national guidelines and local arrangements existing between Trading Standards and Lincolnshire Police.

This council will operate a points scheme for the identification of 'problem premises'. The Scheme is attached at Appendix 4. However, the Team Leader, Food Safety and Licensing and, in his absence, the nominated deputy, may depart from this Scheme where it is felt that enforcement action is necessary in the public interest. The Scheme is for guidance only and each case will be considered on its own merits.

## EXCHANGE AND HANDLING OF INFORMATION

The purpose of this document is to assist the exchange of information whilst not overriding existing legal safeguards on personal information. Section 185 of the Licensing Act 2003 specifically allows for the sharing of information between the Licensing Authority and Responsible Authorities, for the exclusive purpose of facilitating the exercise of the authorities' functions under the Act. The manner in which information can be exchanged should also take into account the following legislation;

- The Data Protection Act 1998 - for the processing of personal information.
- The Human Rights Act 1998 - for the rights of the individual's privacy.
- The Freedom of Information Act 2000
- The Common Law Duty of Confidence.
- The Electronic Communications Act, 2000
- Computer Misuse Act, 1990
- Criminal Procedure and Investigations Act 1996
- Crime and Disorder Act, 1998

Exchange of information should be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail, (written confirmation includes information in electronic form). Creating an accurate and up to date trail should include;

- Record of data disclosed.
- Project chronology.
- Notes of meetings with our partners, and recent correspondence and phone calls.

## Human Rights Act 1998

The European Convention on Human Rights (ECHR) protects the right to respect for private and family life (Article 8). However, the Convention qualifies this right by confirming public authorities can 'interfere' with this right if it is lawful (DPA 1998), proportionate and non-discriminatory.

Lawful interference can be necessary in the interests of the following:

- National Security
- Public Safety
- Economic well being of the country
- The prevention of crime and disorder
- The protection of health or morals
- The protection of the rights or freedoms of others.

## Confidentiality

The parties undertake that information will only be used for the purpose for which it was requested, and will securely store it and destroy it when no longer required.

## Designated Officers

In order to ensure compliance with the Data Protection Act, the parties to this agreement, shall nominate designated officers to whom all requests, and from whom all disclosures of information will be made, on behalf of the relevant data controller

Details to be supplied are:

- Full name
- Business address
- Rank or grade
- Official telephone number
- Official fax number
- Official e-mail address (if appropriate)

On a case-by-case basis, authorised officers will decide:

- Why disclosure is necessary to support the relevant action.
- Why the public interest overrides the presumption of confidentiality.
- Ensure that processing of the personal data held is in accordance with the principles of the Data Protection Act 1998, (see Appendix 5)

## Process

Requests for information must be sent only by the authorising officer to the nominated officers authorised to make disclosures of information. Requests must not be passed to any other officer. The parties agree to provide details of its officers who are authorised to make disclosures on request. The initial contact between parties may be by meeting, correspondence or telephone. Any disclosure will be made only in writing or by secure electronic communication.

The information provided will be sent to the officer within the requesting agency who authorised and transmitted the request.

The parties to this document will;

- Maintain a record of disclosures that will be subject to inspection by internal audit staff.
- Use information only for the purposes for which it was lawfully provided. It will hold that information in accordance with the Data Protection Act 1998.

The parties recognise that access to personal information by staff should be limited to employees with a demonstrable need to know. The data subject is legally entitled to request a copy of their personal data, unless an exemption under the Data Protection Act 1998 applies. If the data subject requests access to their personal data, the data subject will need to submit a request in writing, enclosing the appropriate fee and documentation to prove identity.

The Parties must agree the criteria for the review and weeding of data in accordance with existing policies and codes of practice and should agree a maximum retention period for each item of data.

Providing that the principles of the Code of Practice have been respected and that disclosure would be lawful, the Authority will normally disclose the requested information to the full extent that it holds that information within 7 days.

#### WORK TOWARDS ATTAINING A RISK BASED APPROACH

This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or 'problem premises'.

When either Lincolnshire Fire and Rescue or the relevant health and safety agency carry out risk based inspections of licensed premises, both parties, where appropriate, will inform each other of their inspection findings.

Enforcement agencies' actions will be informed by technical standards; both Lincolnshire Fire and Rescue and the relevant health and safety agency will adopt risk appropriate standards having regard to specific guidance in codes of practice, government guidelines (including appendix E of the guidance issued under section 182 of the Licensing Act 2003), approved industry guides and other approved sources.

NOTE: The basis for the risk rating will be the LACORS risk based model, when published.

## GUIDING PRINCIPLES FOR DECISION MAKING

The Statutory Guidance issued under section 182 of the Licensing Act makes it quite clear that offences committed by proprietors on licensed premises must be pursued by the relevant enforcement authority using the most appropriate legislation; in many cases this will not be the Licensing Act 2003.

Examples where other legislation may be used to address issues in licensed premises are included in Appendix 5.

The Licensing Act 2003 does not distinguish clearly the lead authority either for enforcement or for making representations, in respect of the four licensing objectives. Indeed, some of the interests of the responsible authorities clearly overlap.

Close liaison is therefore essential to ensure consistent and transparent action by the relevant agencies as well as to ensure effective use of resources. However, nothing in this protocol will preclude representation by more than one responsible authority in respect of the same or different licensing objectives, relevant to the same licensed premises. Indeed, in some circumstances it would be advantageous for responsible authorities to support each other towards the common aim of promoting the licensing objectives.

As a guiding principle, the lead authority for both enforcement action and for making representation should be based on the impact the contravention or action has on the promotion of the licensing objectives, and in most cases common sense will dictate the lead authority.

In respect of instigating legal proceedings under the Licensing Act 2003, typically the split of responsibility may be as described below:

Crime and Disorder: Lincolnshire Police

Public Safety: Licensing Authority

Public Nuisance: Licensing Authority or Lincolnshire Police

Protection of Children: Lincolnshire Police or Licensing Authority (also Trading Standards in respect of underage drinking, sale of alcohol to under 18's, etc.)

In respect of making representations and seeking reviews, the split may be described as:

Crime and Disorder: Lincolnshire Police

Public Safety: Environmental Health function, HSE and/or Lincolnshire Fire and Rescue Service

Public Nuisance: Environmental Health function and/or Lincolnshire Police

Protection of Children: Child Protection Agency and/or Lincolnshire Police

The table attached at Appendix 2 seeks to indicate further examples of the likely split of responsibilities and indicates which authority might lead under different situations.

Examples of situations, explaining which authority may take the lead, are included in Appendix 6.

## Capacity at Venues

Where stipulating a safe capacity is deemed necessary, both the Fire Authority and the relevant Health and Safety agency will liaise where there is considered to be a significant risk. The Fire Authority will make an assessment which will relate to fire safety issues. Similarly, health and safety officers will make an assessment from a public safety perspective.

## Use of Closure Powers

Part 8 of the Licensing Act significantly extends the existing powers of the police to close licensed premises. In addition, the Antisocial Behaviour Act 2003, conferred powers on the local authority to close licensed premises under certain circumstances.

Where the licensed premises is causing noise nuisance and disturbance, the powers available to each agency could be used in response to the same circumstances and an agreement needs to be reached to establish which powers would be most appropriate, both to resolve the immediate problems and having regard to subsequent actions.

The statutory guidance refers to the experience of local authority officers in dealing with noise and their additional powers to confiscate sound equipment; therefore police officials may find it helpful to consult the local authority where possible, prior to taking action. Where local authority officers are considering using their powers under the Environmental Protection Act and/or the Antisocial Behaviour Act, they may need to discuss their proposals and the potential consequences with a senior police officer and agree the way forward, having regard to the risks to the public and officers and the overall objective of preventing nuisance to the residents in the vicinity of the premises.

## PROVISION OF ADVICE AND INVESTIGATION OF COMPLAINTS

The signatories to this protocol recognise the value of advice and guidance to applicants and holders of licences, certificates and permissions and all encourage applicants and holders of licences, certificates and permissions to seek such advice, particularly before submitting applications for variations to existing permissions or prior to submitting a temporary event notice.

Each agency will endeavour, where resources permit, to provide advice and guidance on those matters within the remit of that agency (determined in accordance with the guiding principles of decision making). Where information is requested on a matter outside of any agency's remit, then the contact details of the relevant agency will be passed to the applicant/licence holder.

On receipt of a complaint or concerns relating to licensed premises, club premises or personal licence holder, the receiving agency will:

- Action, as appropriate, if the matter is within that agency's remit
- Pass to the relevant agency, in accordance with the liaison arrangements, detailed above,

- Liaise with the other agencies to establish lead responsibility, in accordance with the liaison arrangements, detailed above.

Each agency will have its own service standards and will respond in accordance with those standards.

## DEALING WITH UNLICENSED ACTIVITIES

This section describes action to be taken where activities (as defined by section 1(1) of the Licensing Act 2003) are suspected or discovered but for which a licence has not been issued or has otherwise been covered by a temporary events notice. Action to be taken includes the following:

- Prevent the unlicensed activity proceeding
- Ensure public safety and prevent crime and disorder (if necessary by closing the event)
- Gather evidence with a view to prosecuting the organisers.

The intention, wherever possible, is to prevent unlicensed events taking place, by using a Multi-agency approach at an early stage whenever the likelihood of such an event has been established. There will be an expectation that enforcement agencies will work together to achieve a positive outcome that will enable us to identify and target the organisers of such events to obtain evidence and prosecute for offences where appropriate.

The enforcement partners will:

- As a priority; gather, collate and share information concerning unlicensed activities with other enforcement partners, landowners and other relevant agencies as permitted under Section 112 Crime & Disorder Act 1998.
- Encourage and as far as is practical, support landowners in taking action to prevent or curtail unlicensed activities from taking place, ensuring we do not recommend action which gives rise to personal/organisational liability.
- Carry out an operational review of the information available and, whenever appropriate, take action to prevent or curtail any unlicensed activity from taking place.
- As far as practicable attend all unlicensed activity discovered or brought to our attention, and, when resources and legislation permit, seek to prevent them being established, seize property as permitted by legislation, and gather evidence with a view to prosecuting organisers or landowners as appropriate.
- When intervention is inappropriate Lincolnshire Police (when resources permit) will provide a presence to reassure local communities. Agencies will gather evidence and intelligence to support proceedings against persons identified as being in breach of legislation or for use in preventing future unlicensed activities.
- Share information and evidence between Lincolnshire Police and the local authority taking into account timescales in relation to prosecution.

- Pursue a policy of openness with the media to highlight the dangers of unlawful events and the resolve of a multi-agency co-operation to prevent them. Whenever possible joint press releases should be issued and should seek to assure local communities.

Unlicensed activity tends to fall into two categories - those in respect of which the authorities have received prior information or intelligence regarding the event, and those where they have not. The former enables a pre-planned multi-agency response and the latter would require a spontaneous response that would normally be initiated by Lincolnshire Police as a result of information received. A measured response will be taken by enforcement agencies to such information and the risk such unlicensed activity may be deemed to be posed. The following responses relate to those events, which by their nature, size, location, etc. are deemed 'high risk'.

#### Pre-Planned Response

Enforcement agencies will apply the declared strategy of sharing 'information and intelligence, with a view to preventing the event through early intervention where the law and resources permit.

Enforcement agencies will work together to ensure that both permissive landowners, and organisers are aware of their obligations.

Owners of land adjacent to proposed sites will be advised where possible, thereby allowing sufficient time to apply preventative measures where possible.

Where time permits, enforcement agencies will make contact with the community likely to be affected. Where resources permit, high visibility policing will be used to provide reassurance.

Local Authority Officers will attend wherever possible to support Lincolnshire Police at the site of an unlicensed event.

#### Spontaneous Response

Enforcement agencies will apply the declared strategy of sharing 'information and intelligence, with a view to preventing the event through early intervention where the law and resources permit.

Lincolnshire Police officers together with Local Authority Officers will attempt to attend all unlawful events brought to their attention to gather and secure evidence with a view to prosecuting organisers and or landowners.

The decision to stop a large unlicensed event from continuing has resource and serious safety implications for the officers implementing the decision and for persons attending the event. The decision to stop the event will normally be made by the Lincolnshire Police following a full operational review and risk assessment. If, taking into account the ongoing risk to public safety, the event is allowed to continue, a full audit trail of decisions and risk assessments MUST be available.

When intervention is considered inappropriate Lincolnshire Police should seek to provide a continuing presence to reassure local communities. Both Agencies when possible will seek to gather evidence and/or intelligence to support proceedings against persons identified as breaching legislation or for use in preventing future unlicensed events.

### Post Event

Following any serious incident involving an unlicensed activity, the relevant enforcement agencies will participate in a de-brief. Information on preventative operations will be discussed and best practice and areas of weakness identified, All information/evidence surrounding an event will be shared with a view to taking decisions on prosecution or future licensing applications.

### REVIEW OF LICENCES:

The Licensing Act 2003 permits responsible authorities to apply for a review of a premises licence or a club premises certificate.

In the acknowledgement that any authority may apply to the licensing authority for a premises licence or club premises certificate to be reviewed at any time, the parties to this protocol agree to follow the guiding principles in decision making when determining the most appropriate authority to seek such a review.

Except in extreme cases, the responsible authority seeking a review will:

- Give an early indication to both the holders of the premises licence or club premises certificate and to the licensing authority that this is their intended course of action
- Liaise with other responsible authorities as appropriate to ensure a co-ordinated and thorough review
- Seek an informal resolution to the matter with the holders of the premises licence or club premises certificate, if possible and if appropriate
- Be able to give evidence to the licensing committee hearing the application for review that alternative solutions had been sought to the problem giving rise to the application, and the outcomes, or why alternative solutions were not considered appropriate.

### RESPONSIBILITY FOR PROSECUTIONS:

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

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

It is expected that the decision of who will instigate legal proceedings will be taken in accordance with the guiding principles for decision-making, irrespective of which authority obtained the evidence.

In the event of the Licensing Authority instigating proceedings on the evidence of officers of Lincolnshire Police, the Police will nominate an Officer as the single point of contact to oversee the collection of all used and unused material, to liaise on availability of officers for court, etc.

## NOTIFICATIONS OF PROSECUTION

Notwithstanding the duty of the court in section 131 (duty to notify licensing authorities of convictions), the prosecuting authority will inform the Licensing Authority within 5 working days of any relevant conviction or caution under the Act.

The relevant licensing authority for this purpose is the licensing authority that issued the licence, certificate or temporary event notice, even if that authority is not a party to this protocol.

The notification shall be in writing and shall state:

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

## REGISTER OF CAUTIONS

The Licensing Authority will maintain a register of formal cautions issued by the local authority to holders of licences, certificates or permissions.

## MEDIA RELATIONS

All parties to this protocol agree when handling the media;

- to be fair to our fellow partners, and maintain their integrity
- when providing information to the public, to do so honestly and fairly
- statements must reflect the multi-agency decision process
- consent of the data owner will be sought prior to release to the media

The lead agency, on any individual licensing matter, will be responsible for liaison with the media but will ensure that any other agency with an interest in the matter is kept informed of the media attention and that the response to such interest is discussed, where appropriate and practicable, prior to the issue of formal press statements.

## TEMPORARY EVENT NOTICES:

In response to a temporary event notice, the Licensing Team will notify the responsible authorities as appropriate. The Police can serve a counter notice, where they are satisfied that the crime and disorder objective would be undermined. Similarly, Licensing Authorities may serve a counter notice where they are satisfied that the maximum number of permitted events have been exceeded.

The environmental health officer (of the local authority) or the Health and Safety Executive and/or Lincolnshire Fire and Rescue Service may have concerns regarding the event, which they will seek to address through other mechanisms. It is therefore essential that all agencies seeking to address concerns in respect of a temporary

event liaise closely in order that the applicant and the agencies involved can be sure that measures taken to address one agency's concerns do not adversely impact on the concerns of others.

## REVIEW OF THIS PROTOCOL

The application of this protocol will be kept under review at the Lincolnshire Licensing Officers Group, having regard to:

- Changes in legislation;
- Changes in Government, LACORS or other authoritative guidance;
- Court rulings;
- Challenges, or Representation made
- Issues arising in the implementation of this protocol

This protocol will be reviewed from time to time, as and when circumstances dictate, to ensure that it remains up to date. When the review results in any significant changes, these will be raised at the Lincolnshire Licensing Officers Group for consideration.

## RESOLUTION OF DISPUTES

As a consequence of the willingness to achieve strong partnerships, disputes are expected to be a very rare occurrence. However, in the event of a dispute and in the first instance, the relevant agencies involved should call a formal meeting and try to resolve the dispute by agreement. In the unlikely event that a satisfactory resolution cannot be achieved, the local Crime and Disorder Reduction Partnership will be asked to adjudicate on the matter.

## Appendix 1: Offences with Indicative Lead Authorities

Section	Offence	Lead Authority
33	Notification of change of name or address by premises licence holder or designated premises supervisor	Licensing authority
40	Premises licence holder failing to notify designated premises supervisor of variation to premises licence	Licensing authority
41	Failure to send premises licence to licensing authority upon removal of designated premises supervisor	Licensing authority
49	Failing to notify designated premises supervisor of grant of interim authority notice	Licensing authority
56	Failure to provide premises licence to be updated	Licensing authority
57	Failure to secure safe custody or display on premises of premises licence	Licensing authority
59	Obstructing inspection of premises before grant of a premises licence	Licensing authority
82	Notification of change of name or alteration of rules of a club	Licensing authority
83	Change of relevant registered address of club	Licensing authority
93	Failure to provide club premises certificate to be updated	Licensing authority
94	Duty to keep and produce club premises certificate	Licensing authority
96	Inspection of premises before grant etc of club premises certificate	Licensing authority
108	Right of entry when temporary event notice may be given	Licensing authority or Police
109	Failure to display temporary event notice on premises	Licensing authority
123	Duty to notify licensing authority of convictions during application period	Licensing authority
127	Duty to notify change of name or address	Licensing authority
128	Fail to notify court of personal licence	Police or licensing authority
136	Unauthorised licensable authorities	Licensing authority or Police
137	Exposing alcohol for unauthorised sale	Licensing authority or Police
138	Keeping alcohol on premises for unauthorised sale	Licensing authority or Police
140	Allowing disorderly conduct on licensed premises	Licensing authority or Police
141	Sale of alcohol to person who is drunk	Licensing authority or Police
142	Obtaining alcohol for a person who is drunk	Licensing authority or Police

Section	Offence	Lead Authority
143	Failure to leave licensed premises	Police
144	Keeping smuggled goods	Police or Customs and Excise
145	Unaccompanied children prohibited from certain premises	Licensing authority or Police
146	Sale of alcohol to children	Licensing authority, Police or Trading Standards
147	Allowing the sale of alcohol to children	Licensing authority, Police or Trading Standards
148	Sale of liqueur confectionary to children under 16	Licensing authority, Police or Trading Standards
149	Purchase of alcohol by or on behalf of children	Licensing authority, Police or Trading Standards
150	Consumption of alcohol by children	Licensing authority, Police or Trading Standards
151	Delivering alcohol to children	Licensing authority, Police or Trading Standards
152	Sending a child to obtain alcohol	Licensing authority, Police or Trading Standards
153	Prohibition of unsupervised sales by children	Licensing authority, Police or Trading Standards
156	Prohibition on sale of alcohol on moving vehicles	Police
158	False statements made for the purposes of the Act	Licensing authority
179	Intentionally obstruct entry to an authorised person	Relevant responsible authority

Appendix 2: Indicative Split of Responsibilities for Responsible Authorities

Issue/Subject	Police	Fire	LA	Comments
Underage drinking	<input checked="" type="checkbox"/> If on premises			<input checked="" type="checkbox"/> Trading Standards also involved if 'off' sales premises
Drunkenness on premises	<input checked="" type="checkbox"/>			
Public drunkenness	<input checked="" type="checkbox"/>			
Drugs	<input checked="" type="checkbox"/>			
Violent behaviour	<input checked="" type="checkbox"/>			
Anti-social behaviour	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> possibly, if linked to noise pollution or ASBO	
Effective and responsible management of premises	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	
Training and supervision of staff	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	
Adoption of best practice guidance	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Licensing <input checked="" type="checkbox"/> ASBO <input checked="" type="checkbox"/> Environmental Health	Input from Child Protection
Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	<input checked="" type="checkbox"/> Trading Standards  Input from Child Protection
Provision of effective CCTV in and around premises	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing <input checked="" type="checkbox"/> H&S	
Employment of Security Industry Authority licensed Doorstaff	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	
Provision of toughened or plastic glasses	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> H&S <input checked="" type="checkbox"/> Licensing	
Provision of secure, deposit boxes for confiscated items ('sin bins')	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	
Provision of litterbins and other security measures, such as lighting, outside premises	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Environmental Protection	
Overcrowding of premises		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S	

Issue/Subject	Police	Fire	LA	Comments
Blocked or locked means of escape in the event of fire	Would give immediate advice	<input checked="" type="checkbox"/>	Would give immediate advice <input checked="" type="checkbox"/> H&S	
Use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S	
Suitable and sufficient risk assessments		<input checked="" type="checkbox"/> Fire	<input checked="" type="checkbox"/> H&S	
Effective and responsible management of premises		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S <input checked="" type="checkbox"/> Environmental Protection	Input from Child Protection
Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S	
Regular testing (and certification where appropriate) of procedures, appliances, systems etc.		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S	
Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S	
Implementation of crowd management measures	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S	
Public nuisance from noise	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Environmental Protection	
Public nuisance from litter	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Environmental Protection	
Public nuisance from people leaving the premises	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Environmental Protection	

Issue/Subject	Police	Fire	LA	Comments
Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Environmental Protection	
Control of operating hours for all or parts (e.g. garden areas) of premises	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Environmental Protection	
Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices			<input checked="" type="checkbox"/> Environmental Protection	
Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Environmental Protection <input checked="" type="checkbox"/> Licensing	
Liaison with public transport providers			<input checked="" type="checkbox"/> Through transport planning	
Siting of external lighting, including security lighting			<input checked="" type="checkbox"/> Environmental Protection	
Management arrangements for collection and disposal of litter			<input checked="" type="checkbox"/> Environmental Protection	
Concerns over moral harm	<input checked="" type="checkbox"/>			Input from Child Protection
Concerns over psycho-logical harm	<input checked="" type="checkbox"/>			Input from Child Protection
Concerns over physical harm	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> H&S	Input from Child Protection
Exposure to strong language and sexual expletives (in films)	<input checked="" type="checkbox"/>			Input from Child Protection
Purchase, acquisition or consumption of alcohol	<input checked="" type="checkbox"/>			Input from Child Protection Trading Standards
Exposure to drugs, drug taking or drug dealing	<input checked="" type="checkbox"/>			Input from Child Protection
Exposure to gambling	<input checked="" type="checkbox"/>			Input from Child Protection

Issue/Subject	Police	Fire	LA	Comments
Exposure to activities of an adult or sexual nature	<input checked="" type="checkbox"/>			Input from Child Protection
Exposure to incidents of violence or disorder	<input checked="" type="checkbox"/>			Input from child protection
Exposure to special hazards such as falls from height			<input checked="" type="checkbox"/> H&S	
Provision of a sufficient number of people employed or engaged to secure the protection of children from harm	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> H&S	Input from Child Protection
Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/> Trading Standards  Input from Child Protection
Limitations on the hours when children may be present, in all or parts of the premises	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	Input from Child Protection
Limitations or exclusions by age when certain activities are taking place	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	Input from Child Protection
Imposition of requirements for children to be accompanied by an adult	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> Licensing	Input from child protection
The activity which is being provided is not one of the licensable activities included on their licence	<input checked="" type="checkbox"/> Anyone can report	<input checked="" type="checkbox"/> Anyone can report	<input checked="" type="checkbox"/> Anyone can report	Lead would depend on the impact such a contravention caused
The hours of operation exceed those detailed on their licence	<input checked="" type="checkbox"/> Anyone can report	<input checked="" type="checkbox"/> Anyone can report	<input checked="" type="checkbox"/> Anyone can report	Lead would depend on the impact such a contravention caused
Unlicensed activity	<input checked="" type="checkbox"/> Anyone can report	<input checked="" type="checkbox"/> Anyone can report	<input checked="" type="checkbox"/> Anyone can report	Lead would depend on the impact such a contravention caused

### Appendix 3: Schedule of Local Contacts

The details will need to be completed in Appendix 3 in due course – needs to be roles rather than named officers; TEN may have different contact points; unlicensed events may have different contacts.

## Appendix 4

### POINTS SYSTEM FOR PREMISES

1. If a complaint is received relating to the following list, or an incident occurs that has not been substantiated by a Responsible Authority or other means (e.g. CCTV or Pubwatch), then 2 points will be added to the premises points total.
2. Any substantiated complaint/incident will result in 10 points being added to the premises points total.
3. If 30 points are accrued the premises will then be flagged for discussion at the next or, if urgent, a specially convened meeting of the Group for a discussion on the appropriate inter agency action that should be taken.

#### SUBSTANTIATED OFFENCE OR INCIDENT TYPE

##### PUBS, CLUBS AND COMMUNITY PREMISES

- Noise and nuisance problems – 10 POINTS
- Sales to persons who are drunk – 10 POINTS
- Violence and Public Order Incidents – 10 to 30 POINTS
- Fixed penalty for allowing consumption or for selling to minors – 20 POINTS
- Breach of Fire Regulations/Health and Safety – 20 POINTS
- Breach of licence conditions – 10 to 30 POINTS

To knowingly allow the use of controlled drugs on the premises would result in 30 points being allocated to the premises immediately.

##### OFF LICENCES

- Sales to under eighteens – 20 POINTS
- Allowing sales by person over eighteen for a person who is under age – 20 to 30 POINTS
- Fixed penalty for allowing consumption or for selling to minors – 20 POINTS
- Sales to drunken person – 10 POINTS
- Breach of licence conditions – 10 POINTS
- Noise and nuisance problems – 10 POINTS

##### TAKE AWAYS

- Violence and Public Order Incidents – 10 to 30 POINTS
- Noise and Nuisance problems – 10 POINTS
- Breach of licence conditions – 10 POINTS

##### TIME LIMITS

The record of incidents and offences should be reviewed and removed from the points systems after a certain period of time as indicated below. The time limits should be on a rolling basis starting from the date of the first incident/offence.

## PUBS, CLUBS AND COMMUNITY PREMISES

- Noise and nuisance problems 12 months
- Sales to persons who are drunk 12 months
- Violence and Public Order Incidents – minor 12 months
- Violence and Public Order Incidents – major 24 months
- Fixed penalty for allowing consumption or for selling to minors 24 months
- Breach of Fire Regulations/Health and Safety 12 months
- Breach of licence conditions 12 months

## OFF LICENCES

- Sales to under 18 24 months
- Sales by person over 18 for under age 24 months
- Sales to drunken person 12 months
- Fixed penalty for allowing consumption or for selling to minors 24 months
- Breach of licence conditions 12 months
- Noise and Nuisance problems 12 months

## TAKE AWAYS

- Violence and Public Order Incidents – minor 12 months
- Violence and Public Order Incidents – major 24 months
- Noise and Nuisance problems 12 months
- Breach of licence conditions 12 months

## Appendix 5: Data Protection Legislative Provisions

### Article 8 of Schedule 1, Human Rights Act 1998: Right to respect for private and family life

Everyone has the right to respect for their private and family life, their home and correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### Data Protection Principles

Organisations processing personal data (“controllers”) must comply with the data protection principles. These require that:

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-
  - (a) at least one of the conditions in Schedule 2 is met, and
  - (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

## Data Protection Act 1998

The Data Protection Act gives all individuals who are the subject of personal data ("data subjects") a general right of access to the personal data which relates to them. These rights are known as "subject access rights". Requests for access to records and for other information about those records are known as "subject access requests."

A data subject is entitled to be told if any personal data is held about them and, if so:

- to be given a description of the data;
- to be told for what purposes the data are processed and
- to be told the recipients or the classes of recipients to whom the data may have been disclosed.

This information should include what sort of data are held, the purposes for which the data are processed and the type of organisation or people to whom the data may be disclosed.

The disclosure of personal data is however permitted under s29 in any case where not to make the disclosure would be likely to prejudice the prevention and detection of crime or the prosecution of offenders.

## S29 Data Protection Act 1998

Crime and taxation 29. - (1) Personal data processed for any of the following purposes-

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders, or
- (c) the assessment or collection of any tax or duty or of any imposition of a similar nature,

are exempt from the first data protection principle (except to the extent to which it requires compliance with the conditions in Schedules 2 and 3) and section 7 in any case to the extent to which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in this subsection.

(2) Personal data which-

- (a) are processed for the purpose of discharging statutory functions, and
- (b) consist of information obtained for such a purpose from a person who had it in his possession for any of the purposes mentioned in subsection (1),

are exempt from the subject information provisions to the same extent as personal data processed for any of the purposes mentioned in that subsection.

(3) Personal data are exempt from the non-disclosure provisions in any case in which-

- (a) the disclosure is for any of the purposes mentioned in subsection (1), and
  - (b) the application of those provisions in relation to the disclosure would be likely to prejudice any of the matters mentioned in that subsection.
- (4) Personal data in respect of which the data controller is a relevant authority and which-
- (a) consist of a classification applied to the data subject as part of a system of risk assessment which is operated by that authority for either of the following purposes-
    - (i) the assessment or collection of any tax or duty or any imposition of a similar nature, or
    - (ii) the prevention or detection of crime, or apprehension or prosecution of offenders, where the offence concerned involves any unlawful claim for any payment out of, or any unlawful application of, public funds, and
  - (b) are processed for either of those purposes, are exempt from section 7 to the extent to which the exemption is required in the interests of the operation of the system.

(5) In subsection (4)-

"public funds" includes funds provided by any Community institution;

"relevant authority" means-

- (a) a government department,
- (b) a local authority, or
- (c) any other authority administering housing benefit or council tax benefit.

## Appendix 6: Illustrative Scenarios

### Examples of Using Other Legislation:

Scenario: During a routine inspection of a nightclub, the Fire Officer observes that all the fire exits are locked and the manager has no knowledge of the location of the keys necessary for unlocking them.

Action: Without being able to immediately rectify the problem, the most appropriate course of action for the Fire Officer is to serve a prohibition notice under section 10 of the Fire Precautions Act, 1971 to remedy the situation (as opposed to seeking a review of the licence under the Licensing Act, 2003).

Scenario: Excessive noise from amplified music is escaping from a village hall, causing unreasonable disturbance to residents in the locality.

Action: The Local Authority out of Hours Call Service will be available to offer advice and if appropriate assistance.

Scenario: A member of staff is arrested for stealing money from the till of a licensed premises.

Action: The person is arrested and dealt with under the Theft Act 1968.

### Examples of Who Takes the Lead:

Scenario: Premises licensed to sell alcohol reported to be operating beyond their permitted hours:

The Police would lead, as there is sale of alcohol beyond the permitted hours. However, the Licensing Enforcement Officers would be able to offer assistance.

When the Police Lead: If the impact of the licensed premises opening later than their permitted hours is that additional crime, disorder and antisocial behaviour arises in the vicinity of the premises, then the Police should lead by interviewing the premises licence holder.

Action: Lincolnshire Police could prosecute for breach of licence condition, seek a review of the licence or write a warning letter to the premises licence holder (whichever of these actions would be most consistent with the Lincolnshire Police's prosecution policy).

When the Local Authority Lead: If the impact of opening beyond permitted hours was noise from music escaping from the premises causing a disturbance to residents in the vicinity, the Local Authority Environmental Protection Officer would lead, again by interviewing the premises licence holder.

Action: The LA may serve a noise abatement notice under the Environmental Protection Act 1990 or seek a review of the licence or write a warning letter to the premises licence holder.

In addition, the Licensing Authority could prosecute for breach of licence condition, using the evidence of the Environmental Health staff . (The choice of action(s) should be consistent with the Council's enforcement policy).

However, there would be other examples where there is overlap within the same objective.

Examples of Overlaps:

Scenario: It is identified during a routine check on a licensed village hall (which is not a workplace) that there is a total absence of fire fighting equipment.

The Fire Authority could lead on this matter, in order to promote the public safety objective, acting under the Licensing Act 2003, if no more appropriate legislation existed to resolve the situation. Alternatively, an officer of the Environmental Health function could act if authorised under the Licensing Act 2003.

Fire Authority Lead: If the public safety breach were restricted just to the absence of fire fighting equipment, it would be more appropriate for the fire officer to lead.

Joint Action: If there were a large number of breaches of public safety in respect of both fire precautions and general health and safety, it would be most appropriate for both authorities to consider seeking a review of the licence, in the acknowledgement that any authority may apply to the licensing authority for a licence or club premises certificate to be reviewed at any time.

This example clearly demonstrates the need for good communication and liaison between the responsible authorities, to ensure effective and targeted use of resources and a transparent but comprehensive approach to the relevant licence holder.

## Appendix 7:

### ENFORCEMENT CONCORDAT

#### The Principles of Good Enforcement: Policy and Procedures

This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice, and safety.

We have therefore adopted the central and local government Concordat on Good Enforcement. Included in the term "enforcement" are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.

#### Principles of Good Enforcement: Policy

- Standards

In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

- 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, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. 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 business, especially small and medium sized businesses, 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 business to seek advice /information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

- Complaints about service

We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

- Proportionality

We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, 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 inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS) and the Local Authority National Type Approval Confederation (LANTAC).

#### Principles of Good Enforcement: Procedures

Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.

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 environmental protection or to prevent evidence being destroyed).

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.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).