

Licensing Concordat of Good Enforcement

1. General Enforcement Policy

1.1 This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

1.2 This document sets out what business, individuals and the community as a whole can expect from Calderdale Metropolitan Borough Council's Licensing Department. The policy is based on the Government's Enforcement Concordat Principles of Good Enforcement and is in accordance with the Regulator's Compliance Code.

1.3 The effectiveness of legislation in protecting businesses, individuals and the community depends on the compliance of those regulated. The Licensing department recognises that most businesses want to comply with the law. We will therefore take care to help businesses and the public to meet their legal obligations without unnecessary expense, while taking appropriate action against those who flout the law.

2. Standards

2.1 The Licensing Department is committed to consultation with businesses and the public. We have drawn up clear standards, setting out the level of service and performance that the public and businesses can expect to receive; these are detailed in section 9.

3. Openness

3.1 The Licensing Department will provide information and advice in plain language on the legislation we enforce and will disseminate this as widely as possible. We will be open about how we set about our work, including the charges we set.

4. Helpfulness

4.1 We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point for further dealings with us and encourage business and the public to seek advice/information from us. We will ensure that, whenever practicable, our enforcement services are effectively co-ordinated to minimise overlaps and delays.

5. Complaints about the Service

5.1 Complaints will follow Calderdale MBC's formal complaints procedure (available on the Council's web site). The complaints procedure explains the rights of complaint and appeal, including the timescales likely to be involved.

6. Proportionality

6.1 The Licensing Department will minimise the cost of compliance by ensuring that any action required is proportionate to the risks. As far as the law allows we will take account of the circumstances of the case 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.

7. Consistency

7.1 The Licensing staff will exercise judgement in individual cases and there will be arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies.

8. Shared Enforcement Rules

8.1 Legislation in relation to licensing is enforced by several enforcement agencies. Where there are shared enforcement roles e.g. West Yorkshire Police, the Health and Safety Executive, other Council Departments, West Yorkshire Fire Service etc, officers will notify the enforcement agency of contraventions for which that agency is responsible.

9. Procedures

9.1 When the authority becomes aware of a breach of legislation administered by the Licensing department, an officer will visit the site within 3 working days of receiving the complaint.

9.2 Advice from the 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. Legal requirements will be clearly distinguished from best practice advice.

9.3 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.

9.4 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.

9.5 The enforcement powers the authority has in carrying out their duties are contained in legislation. The time limits prescribed in these acts will be applied.

9.6 Rights of appeal against formal action and notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

10. When do we Prosecute?

10.1 Factors that are taken into account when considering whether to prosecute may include:

- The seriousness of the offence
- The history of the offender
- The willingness of the business or individual to prevent a recurrence of the problem and co-operate with the department
- Whether it is in the interests of the public to prosecute
- The realistic prospect of a conviction
- Whether any other action would be more appropriate
- The views of any complainant and other interested parties in a prosecution
- Application and review of policy

10.2 All Licensing personnel will act in accordance with this policy document, the relevant legislation and guidance procedures applicable. Departure from the policy should be fully justified and considered by a senior member of the Licensing department prior to a decision being taken. However, this provision shall not apply where a risk of injury or to health is likely to occur due to a delay in a decision being made.

10.3 This policy will be reviewed and amended to reflect any changes that may occur in operation procedures or to current legislation.

Contact

If you wish to make comment or need additional guidance on this policy contact:

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