



Licensing Visits and Enforcement Procedure

Policy

Neighbourhood Policing Specialist Neighbourhoods Policy.

Procedure

1. Introduction

- 1.1 Surrey Police will work actively with Local Authorities and other bodies including, Fire and Rescue Service, HM Revenue & Customs, Trading Standards, Child Protection, Security Industry Authority, UK Borders Agency and Crown Prosecution Service, in enforcing the licensing legislation.
- 1.2 This procedure provides the minimum expectation to enforcing the Licensing Act, and is designed to assist officers attending Licensed Premises by identifying the type of information required to conduct an efficient and effective Licensing Visit.
- 1.3 When conducting a visit to a Licensed Premises it is important to recognise the different types of conditions attached to the Premises License and who should be responsible for the upkeep of these at the premises.

2. Overview

- 2.1 Surrey Police will work actively with Local Authorities and other bodies as above, in enforcing the licensing legislation.
- 2.2 Surrey Police will not restrict other regulatory bodies from carrying out enforcement under their own regulatory powers.

- 2.4 Surrey Police officers and staff will make licensing visits to premises, the details of which will be recorded on InnKeeper, the force licensing database. On occasion it will be appropriate to conduct joint visits with other regulatory agencies. Those visits will also be recorded on InnKeeper.
- 2.5 Surrey Police will work in partnership with the licensing trade to ensure the promotion of the 4 licensing objectives. However, Surrey Police will not hesitate in taking appropriate enforcement action against those premises who contravene the licensing objectives. Where necessary and appropriate, Surrey Police will work, and exchange intelligence, with other regulatory agencies in progressing such enforcement action.
- 2.6 Conducting licensing visits to premises will be directed by intelligence. However, it is recognised that there is a valuable opportunity to prevent crime & disorder by conducting ad hoc visits to licensed premises. These visits will be undertaken as part of the force's approach to high visibility policing. Such visits will assist in assessing the impact the licensed premises are having on the area.
- 2.7 Divisionally operated National Intelligence Model (NIM) processes will dictate when visits to specific premises or areas need to take place. The NIM process will take due account of reliable intelligence provided by other agencies.
- 2.8 Surrey Police responses to breaches of the legislation will be proportionate to the nature of the issue and take into account both public safety & the public interest.

3. Visits

- 3.1 On attendance at a Licensed Premises for a licensing check, contact must be made with the Designated Premises Supervisor (DPS) or other nominated person within the premises.
- 3.2 The reason for conducting a Licensing Visit is to establish if the premises is working to their license conditions, or if it is currently breaching them.
- 3.4 The record of the visit should detail all persons working at the premises. A check of the SIA door staff must be completed as well as recording their SIA identification number.
- 3.5 Common examples of breaches of the premises licence are;
- Incidents not recorded within the 'Incidents and refusals register';
 - CCTV either not working or staff present are unable to work it or download it if required for police investigating incidents or crime;
 - The Premises License Summary must be visible to customers within the licensed premises. This should include all pages of the premises License;
 - Windows and doors must be kept closed except for ingress and egress after specific time periods (see license conditions);
 - Challenge 25 if patrons appear to be below the age of 25 years. Age verification practices are required;

- The correct amount of SIA door staff working and the right times. The number of SIA door staff can increase with either the time of night, regulated entertainment or number of patrons present;
- Staff training diaries to be kept up to date and available for police to inspect either at the time or an agreed date thereafter.
- Irresponsible alcoholic drinks promotions;
- Alcohol trading times maybe different to the alcohol consumption time (drinking up period);
- Zero tolerance drugs policy and the random searching of patrons and areas within the premise that may be used for drug use.

Note: This list of common breaches does not automatically apply as Licensing Conditions to all licensed premises. Please ensure you check the premises licence prior to attending a licensed premises for the full and up to date list of conditions.

4. Enforcement Options

- 4.1 Surrey Police will, in general, seek to achieve compliance with the licensing objectives and requirements of the Licensing Act 2003 through providing advice & guidance.
- 4.2 The range of enforcement action available for use includes the following measures to achieve compliance, all of which must be documented within Innkeeper.
 - Verbal advice
 - Written advice
 - Verbal warning
 - Written warning
 - Action Plans.

At any time the management of a licensed premises can voluntarily place themselves on an action plan with the assistance from the police and/or other partner agencies. Action plans are important as they can be used to demonstrate a willingness of the premises management to work to try and improve issues. However, it should be noted that they are not *necessary* prior to enforcement action being taken.

- Prosecution.
- Closures – LA 2003 S160 & Closure Notice – Anti-social Behaviour, Crime and Policing Act 2014 S76
- Prosecution and / or Civil Actions (Applications to Review a Premises Licence)
- The submission of an Application to Review the Premises Licence to the Local Authority, which will be completed in compliance with the Premises Licence Review Protocol found at Appendix D. The possible sanctions of a Premises Licence Review Hearing can be:
 - Suspension of the Premises Licence for a period not exceeding 3 months
 - To have additional conditions applied to the Premises Licence
 - To remove or reduce the times of a Licensable Activity
 - To remove the Designated Premises Supervisor
 - To revoke the Premises Licence

- 4.3 The individual circumstances of the breach of the legislation will determine the level of enforcement. Advice and direction must be sought from the Alcohol and Drugs Portfolio Lead or advisor.
- 4.4 All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on their individual merits
- 4.5 Civil actions under LA2003 (i.e. Premises Review Applications) in certain circumstances, are considered more effective than prosecution due to a wider range of remedies available to the Local Authority, to whom the application is being made. In addition, the time frames associated with this course of action are much shorter than that of a prosecution. (See Appendix 'D' Premises Licence Review Protocol)
- 4.6 Surrey Police will remind the CPS and should, through the Clerk, ensure Magistrates are aware of the following;
- 4.6.1 That the holder of a personal licence, when charged with a "relevant offence" (an offence listed in Schedule 4 of the 2003 Act), must, no later than when he makes his first appearance in court, produce his personal licence to the court or if that is not practicable, notify the court of the fact that he possess a personal licence and of the fact that it is an offence not to do so – S128 LA 2003; and,
- 4.6.2 Of their powers to suspend or revoke a Personal Licence held under the Licensing Act 2003 in the case of a conviction in respect of a relevant offence.
- 4.7 When prosecution is being considered, the relevant enforcement bodies will, on a case-by-case basis, decide which lead authority should prosecute the offence.
- 4.9 When considering action that may lead to prosecution the following factors will be addressed:
- The seriousness of the alleged offence.
 - The history of the business / individual concerned.
 - The willingness of the business / individual to prevent a reoccurrence of the problem.
 - Whether it is in the public interest to prosecute.
 - Whether there is a realistic prospect of conviction.
 - Whether any other action (including a formal caution) would be as effective.
 - The views of any complainant and other parties with an interest in a prosecution.

5. Enforcement - Closure of Licensed Premises'

- 5.1 Part 8 of the Licensing Act 2003 gives a Magistrates Court power to close premise that have a Premises' Licence or Temporary Event Notice in effect, which are in an area experiencing disorder. **(Not a venue with a Club Premises Certificate, unless operating under a TEN which in turn then gives Police Officers a power of entry).** In addition to the foregoing, a relevant officer (officer of the rank of superintendent or above) may issue a closure notice on any premises for persistently selling alcohol to children – LA 2003, S169A.

Please also note, The Anti-social Behaviour, Crime and Policing Act 2014, see below.

5.3 The closure powers are: -

- Orders to close all premises in an area experiencing, or expected to experience, disorder (Section 160)
 - The Order is made by the Magistrates Court
 - An Order may only be made on the application of a Superintendent or officer of higher rank, who must appear before the Bench personally.
 - The necessity to prevent disorder is the only ground for an Order.
 - The closure period must not exceed 24 hours.
 - Home Office Guidance suggests these Orders should only be applied for where “absolutely necessary”.
- Power to Issue Closure Notice for Identified Premises – (Section 76 Anti-social Behaviour, Crime and Policing Act 2014)
 - The Notice is issued by an officer of the rank of Inspector or higher for a period of 24 hours. An officer of the rank of Superintendent or higher, must be advised of the issue of the Closure Notice as soon as practicable.
 - A Superintendents Authority must be gained if the Closure Notice is to be in effect for a period longer than 24 hours, but not more than 48 hours
 - A Closure Notice may be issued if the use of a particular premises has resulted in, or is likely soon to result in, nuisance to members of the public, or
 - disorder near those premises associated with the use of those premises.
 - The Inspector or Superintendent must consider the conduct of licence holders, designated premises supervisors, managers and other users in determining whether to use the power to issue a Closure Notice, or not. The previous conduct of the premises will also be considered.
 - The maximum closure period is 24 hours but such a notice may be extended by up to 24 hours but only with a Superintendents Authority (so a total of 48 hours).
 - If the notice is issued by a police officer of the rank of Superintendent, the (initial) closure period may be up to 48 hours.
 - Whenever a closure notice is issued, an application MUST be made to a Magistrates Court for a Closure Order (Unless the Closure Notice has been cancelled under S78. The application for a closure order must be heard by the Court not later than 48 hours after service of the Closure Notice – S79.
 - Alternatives to making a S78 Closure Notice can be considered, for example, a voluntary closure by the premises management.
 - As the issue of a Closure Notice will result in an early Court hearing and will prompt a review of the premises licence, effort should be made to obtain, preserve and collate evidence for both procedures as soon as possible.
- An Officer of the rank of superintendent or above may issue a closure notice on a premises for “persistently selling alcohol to children” – LA 2003 S169A, If

- There is evidence that the offender has committed an offence under section LA 2003 147A;
- The officer considers that if the offender were prosecuted for the offence, there would be a realistic prospect of him being convicted, and
- The offender is still, at the time the closure notice is given, the holder (or one of the holders) of the premises licence.
- The closure notice must –
 - Comply with LA 2003 S169A(3) and in particular propose a prohibition of the sale of alcohol from the premises for a period of between 48 hours and 336 Hours (14 days). The notice, despite its name does NOT require the premises to close but only to cease selling alcohol for the period specified in the notice.
- It is very important to note that giving the notice, it offers the offender the opportunity to discharge ALL criminal liability in respect of the alleged offence – S147A.