

*When adopted by each authority, there will need to be a cover sheet indicating what it is and who has signed up.*

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**LEICESTER, LEICESTERSHIRE AND RUTLAND MODEL ENFORCEMENT PROTOCOL (DRAFT 1)**

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## 1. INTRODUCTION

1.1 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 nuisance
- protecting children from harm

1.2 The Government strongly recommends that licensing authorities establish protocols on enforcement issues. The principal relationship that needs to be defined relates to that between Leicestershire Police and the Local Authority, as it is only those bodies 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 representation to the Licensing Authority. The role of these agencies is also defined within this protocol.

1.3 All signatories to this protocol recognise the interests of both citizens and businesses and will work closely, with partners, 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.

## 2. AIM OF THIS PROTOCOL:

2.1 The aim of this protocol is to establish a model upon which all local authorities in Leicester, Leicestershire and Rutland can base their individual enforcement protocols with the Responsible Authorities.

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

- Local Licensing Authority
- Leicestershire Police
- Leicestershire Fire and Rescue Service
- Local Authority Pollution Control Service
- Local Authority Occupational Health and Safety Enforcement Service
- Health and Safety Executive
- Leicestershire County Council Trading Standards (or local Trading Standards Department as appropriate)
- Leicestershire Child Protection Committee (or local child protection representative, as appropriate)
- Other enforcement agencies as appropriate (e.g. customs and excise)

2.3 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

2.4 This protocol seeks to build upon the good working relationships, which currently exists 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.

2.5 In particular, this protocol should also provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. 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 targeting should prevail and inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

### **3. GUIDING PRINCIPLES FOR DECISION MAKING**

3.1 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.

3.2 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.

3.3 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.

**3.4 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, along the following lines:**

3.5 In respect of instigating legal proceedings, typically the split of responsibility may be as described below:

- Crime and Disorder: Leicestershire Police
- Public Safety: Licensing Authority and Leicestershire Fire and Rescue Service
- Public Nuisance: Licensing Authority or Leicestershire Police
- Protection of Children: Leicestershire Police or Licensing Authority

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

- Crime and Disorder: Leicestershire Police
- Public Safety: Local Authority Health and Safety Service, Health and Safety Executive and/or Leicestershire Fire and Rescue Service
- Public Nuisance: Local Authority Pollution Service and/or Leicestershire Police



- Protection of Children: Child Protection Agency

3.7 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.

#### **4. LIAISON ARRANGEMENTS:**

4.1 Each enforcement agency should nominate a Liaison Officer (and a deputy)( see Appendix 1), 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
- the initial contact to discuss and liaise in the event of uncertainty over lead agency roles

4.2 Section 29 (in relation to crime prevention and the apprehension of offenders) and Section 31 (in relation to Health and Safety issues) of the Data Protection Act 1998 allows for the exchange of information between relevant parties. Section 115 of the Crime and Disorder Act 1998 allows for information to be specifically exchanged between the police and the licensing authorities and is underpinned by the Data Sharing Protocol of October 2003 to which the Leicestershire Constabulary and Local Authorities are signatories.

4.3 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 Licensing Act must be made in writing giving reasons why disclosure is necessary.

4.4 Information supplied must only be used of 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.

4.5 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.

4.6 Exchange of information should be conducted in a timely and accurate fashion and confirmed in writing in all cases, (written confirmation includes in electronic form).

#### **5. PROVISION OF ADVICE AND INVESTIGATION OF COMPLAINTS**

5.1 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.

5.2 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.

5.3 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.

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

## **6. REVIEW OF LICENCES:**

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

6.2 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 signatories of this protocol agree to follow the guiding principles in decision making when determining the most appropriate authority to seek such a review.

6.3 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 necessary 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 demonstrate, to the licensing committee hearing the application for review, that alternative approaches to dealing with the situation have been attempted, or were not appropriate

## **7. RESPONSIBILITY FOR PROSECUTIONS:**

7.1 Section 186 of the Act provides that 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, (Trading Standards), authority for offences under section 146 or 147 (Sale of alcohol to children and allowing the same.)



7.2 It is expected that the decision of who will instigate legal proceedings will be taken in accordance with the guiding principles for decision making.

## **8. NOTIFICATIONS OF PROSECUTION**

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

8.2 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.

8.3 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 (Relevant Offence) of the Act.

## **9. REGISTER OF CAUTIONS**

9.1 Each licensing authority will maintain a register of formal cautions issued to holders of licences, certificates or permissions

## **10. MEDIA RELATIONS**

10.1 The lead agency 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, prior to the issue of formal press statements.

## **11. TEMPORARY EVENT NOTICES:**

11.1 In response to a temporary event notice, all responsible authorities will be notified of the details of the event for information. However, it is acknowledged that only the Police can serve a counter notice and only where they are satisfied that the crime prevention objective would be undermined.

11.2 The pollution officer, health and safety officer (of the local authority or Health and Safety Executive) and/or Leicestershire 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.

## **12. REVIEW OF THIS PROTOCOL**

The application of this protocol will be kept under regular review at the Leicestershire Joint Licensing Officers Forum but will be the subject of formal review annually, such review to be carried out by the Enforcement Protocol Sub Group of the Joint Licensing Officers Forum. Each local authority is encouraged to hold a formal review with the officers involved, on an annual basis, the results of which should be passed to the Enforcement Protocol Sub Group for consideration as part of the review of this framework.



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**Appendix 1.****Schedule of Local Contacts.**

|   |   |  |                       |   |
|---|---|--|-----------------------|---|
| The Chief<br>Officer<br>Leicestershire<br>Police. | Licensing<br>Department<br>Mansfield<br>House,<br>74 Belgrave<br>Gate,<br>Leicester LE1<br>3GG. | Telephone:<br>0116 248<br>4331/2<br>(1) for Greater<br>Leicester (2) for<br>the County and<br>Rutland. | Fax:<br>0116 248 4337 | E-mail:<br>Licensing@leice<br>stershire.pnn.pol<br>ice.uk |
|   |   |  |                       |   |
|   |   |  |                       |   |
|   |   |  |                       |   |



**Appendix 2.**

**Indicative split of Responsibilities for Responsible Authorities.**



10V4 27/07/04

| Role  | Licensing Office | Licensing Enforcement Officers | EHO's Responsible for Health & Safety | EHO's responsible for Noise Control | Police | Fire Service | Planners | Building Control | Notes<br>✓ = Lead Role<br>✓ = Supporting Role  |
|---|------------------|--------------------------------|---------------------------------------|-------------------------------------|--------|--------------|----------|------------------|--|
| <b>Applications</b>   |                  |                                |                                       |                                     |        |              |          |                  |  |
| Consultee   |                  |                                | ✓                                     | ✓                                   | ✓      | ✓            | ✓        |                  |  |
| Processing applications, variations etc   | ✓                |                                |                                       |                                     |        |              |          |                  |  |
| Advice  | ✓                |                                |                                       |                                     | ✓      |              |          | ✓                | Advice may be sought about safety or occupancy levels  |
| <b>Enforcement</b>  |                  |                                |                                       |                                     |        |              |          |                  |  |
| Unlicensed Activity, non-compliance with operating schedule, breach of conditions |                  | ✓                              |                                       | ✓                                   | ✓      |              |          |                  | <ul style="list-style-type: none"> <li>• This is one offence under the act</li> <li>• There is a limit on what can be prescribed as conditions, can not duplicate other legislation</li> <li>• Prime example of breach of condition is overcrowding</li> </ul> |



11V4 27/07/04

| Role   | Licensing Office      | Licensing Enforcement Officers | EHO's Responsible for Health & Safety | EHO's responsible for Noise Control | Police | Fire Service | Planners | Building Control | Notes<br>✓ = Lead Role<br>✓ = Supporting Role |
|--|-----------------------|--------------------------------|---------------------------------------|-------------------------------------|--------|--------------|----------|------------------|---|
| General safety in venues during operation  |                       |                                | ✓                                     |                                     | ✓      | ✓            |          |                  |   |
| <b>Specific Offences</b>   |                       |                                |                                       |                                     |        |              |          |                  |   |
| <b>Premises Licence Holder</b> <ul style="list-style-type: none"> <li>• Failure to notify change of name or address</li> <li>• Notify a DPS that he has been replaced or application</li> <li>• Supply licence to LA where DPS has given notice to cease.</li> <li>• Notify a DPS of an application for transfer, etc</li> <li>• Supply the licence to LA for amendment</li> <li>• Keep, display, produce licence at premises</li> </ul> | ✓<br>✓<br>✓<br>✓<br>✓ | ✓                              |                                       |                                     | ✓      |              |          |                  |   |



12V4 27/07/04

| Notes<br>✓ = Lead Role<br>✓ = Supporting Role |  |  |  |  |  |  |  |  |  |  |
|---|--|--|--|--|--|--|--|--|--|--|
| Building Control                              |  |  |  |  |  |  |  |  |  |  |
| Planners                                      |  |  |  |  |  |  |  |  |  |  |
| Fire Service                                  |  |  |  |  |  |  |  |  |  |  |
| Police  |  |  |  |  |  |  |  |  |  |  |
| EHO's responsible for Noise Control           |  |  |  |  |  |  |  |  |  |  |
| EHO's Responsible for Health & Safety         |  |  |  |  |  |  |  |  |  |  |
| Licensing Enforcement Officers                |  |  |  |  |  |  |  |  |  |  |
| Licensing Office                              |  |  |  |  |  |  |  |  |  |  |
| Role  |  |  |  |  |  |  |  |  |  |  |

C0012



13V4 27/07/04

| Role  | Licensing Office | Licensing Enforcement Officers | EHO's Responsible for Health & Safety | EHO's responsible for Noise Control | Police | Fire Service | Planners | Building Control | Notes<br>✓ = Lead Role<br>✓ = Supporting Role |
|---|------------------|--------------------------------|---------------------------------------|-------------------------------------|--------|--------------|----------|------------------|---|
| <b>Clubs</b> <ul style="list-style-type: none"> <li>Failure to notify LA of change of name, address, rules, etc</li> <li>Supply certificate to LA for amendment</li> <li>Keep, display, produce certificate at premises</li> </ul>  | ✓<br>✓           | ✓                              |                                       |                                     | ✓<br>✓ |              |          |                  |   |
| <b>Temporary Event Notices</b><br>Failure to keep and display notice  |                  | ✓                              |                                       |                                     | ✓      |              |          |                  |   |
| <b>Obstruction</b><br>Obstructing authorised officer  |                  | ✓                              |                                       |                                     | ✓      |              |          |                  |   |
| <b>Personal Licence Holders</b> <ul style="list-style-type: none"> <li>Notify LA of change of name or address</li> <li>Notify LA of offence</li> <li>Notify LA of new conviction</li> <li>Supply licence for amendment</li> <li>Produce licence to authorised person</li> </ul> | ✓<br>✓<br>✓<br>✓ | ✓                              |                                       |                                     | ✓      |              |          |                  |   |

0013



14V4 27/07/04

| Role  | Licensing Office | Licensing Enforcement Officers | EHO's Responsible for Health & Safety | EHO's responsible for Noise Control | Police | Fire Service | Planners | Building Control | Notes<br>✓ = Lead Role<br>✓ = Supporting Role |
|---|------------------|--------------------------------|---------------------------------------|-------------------------------------|--------|--------------|----------|------------------|---|
| <b>General Offences</b> <ul style="list-style-type: none"> <li>• Unauthorised licensable activities</li> <li>• Unauthorised exposure of alcohol for sale</li> <li>• Possession of alcohol intended for sale</li> <li>• Allowing disorderly conduct</li> <li>• Selling alcohol to person who is drunk</li> <li>• Obtaining alcohol for person who is drunk</li> <li>• Drunk person entering or refusing to leave licensed premises</li> <li>• Smuggled goods</li> <li>• Sale of alcohol from moving vehicle</li> <li>• Breach of prohibition order on train</li> <li>• False statement on application</li> </ul> |                  | ✓                              |                                       |                                     | ✓      |              |          |                  |   |
| <b>Closure Orders</b><br>Breach of Closure Orders   | ✓                | ✓                              |                                       |                                     | ✓      |              |          |                  |   |

C0014

14



15V4 27/07/04

| Role   | Licensing Office | Licensing Enforcement Officers | EHO's Responsible for Health & Safety | EHO's responsible for Noise Control | Police | Fire Service | Planners | Building Control | Notes<br>✓ = Lead Role<br>✓ = Supporting Role                      |
|--|------------------|--------------------------------|---------------------------------------|-------------------------------------|--------|--------------|----------|------------------|--|
| <b>Responding to Complaints</b>  |                  |                                |                                       |                                     |        |              |          |                  |  |
| Unlicensed activity  | ✓                | ✓                              |                                       |                                     | ✓      |              |          |                  |  |
| Alcohol related complaints   |                  | ✓                              |                                       |                                     | ✓      |              |          |                  |  |
| Complaints relating to crime and disorder                                      |                  | ✓                              |                                       |                                     | ✓      |              |          |                  |  |
| Complaints relating to noise and disturbance but not occurring at present time |                  |                                |                                       | ✓                                   |        |              |          |                  |  |
| Complaints relating to ongoing noise and disturbance                           |                  | ✓                              |                                       | ✓                                   | ✓      |              |          |                  |  |
| Complaints relating to public safety   |                  | ✓                              | ✓                                     |                                     | ✓      |              |          |                  |  |
| Complaints relating to protecting children from harm                           |                  | ✓                              |                                       |                                     | ✓      |              |          |                  | Uncertain how this should be dealt with. Refer to Social Services? |

0015