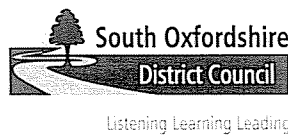


OXFORDSHIRE
MEMORANDUM OF UNDERSTANDING
AND
JOINT ENFORCEMENT PROTOCOL



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I. Introduction

- 1.1. This is a Memorandum of Understanding and Joint Enforcement Protocol signed between The Oxfordshire Licensing Authorities, that is:
 - Cherwell District Council
 - Oxford City Council
 - South Oxfordshire District Council
 - Vale of White Horse District Council
 - West Oxfordshire District Council; and
- 1.2. the Responsible Authorities in Oxfordshire under the Licensing Act 2003, they are:
 - Thames Valley Police
 - Oxfordshire County Council (Social and Health Care / Fire and Rescue Service / Trading Standards)
 - All Oxfordshire District Council Environmental Health Services
- 1.3. The above Licensing Authorities and Responsible Authorities are the Parties to this Memorandum of Understanding and Joint Enforcement Protocol.
- 1.4. The purpose of this Memorandum of Understanding and Joint Enforcement Protocol is to provide safe licensed premises in Oxfordshire and outline how each party will fulfil its statutory responsibilities under the Licensing Act 2003 and other relevant legislation.
- 1.5. The Licensing Act 2003 (“the Act”) introduces a new regime for the licensing of a variety of activities, including places where alcohol is supplied and sold and entertainment is provided. It sets out four licensing objectives which are to be promoted by licensing authorities, in conjunction with other “responsible authorities”, as defined by the Act, and the holders of licenses. These are:
 - The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.6. Each Party has enforcement responsibilities in relation to premises licensed under the Act and recognises the importance of effective co-operation and liaison to ensure that premises licence holders, designated premises supervisors, personal licence holders and club premises certificate holders understand and comply with the law.
- 1.7. The purpose of this document is to ensure efficient and effective co-operation between parties when dealing with areas of mutual interest, to secure:
 - open communication between agencies;
 - clear lines of responsibility regarding enforcement of the law;
 - sharing intelligence and information to ensure effective enforcement.

2. Principles of enforcement

- 2.1. The Parties will focus on premises failing in terms of the licensing objectives, with others left to go about their legitimate activities without unnecessary interference.
- 2.2. Within the principles of enforcement each party agrees to the Enforcement Concordat.

3. Communication

- 3.1. Good communication between Parties is vital to ensure that information of mutual interest is shared effectively and, in particular, where responses are required within a tight timescale to meet statutory periods for determination of applications, that deadlines can be met. It is important that each organisation has a reliable contact point, and will identify nominated officers and their area of responsibility. There must be a clear understanding about when, where, and how contact shall be made, including out of hours and in emergencies.
- 3.2. Contact information for each Licensing Authority and responsible authority is contained in Appendix A.

4. Sharing Intelligence

- 4.1. The parties to this Memorandum of Understanding need to share information about premises and people currently licensed or proposed to be licensed, in such a way as to enable the effective operation of the licensing process. This agreement facilitates the sharing of information by all parties in compliance with the rules on Data Protection, Freedom of Information, and Human Rights.
- 4.2. Where relevant, matters will be referred to the Oxfordshire Licensing Strategy Group as a forum for dispute resolution. This group shall include representatives of each party.

5. Data Protection and exchange of information

- 5.1. Section 29 of the Data Protection Act 1998 allows for the exchange of information where relevant.
- 5.2. Section 115 of the Crime and Disorder Act 1998 allows for information to be specifically exchanged between the Police and the Licensing Authority where necessary for the purpose of the act.
- 5.3. Section 35 of the Data Protection Act 1998
- 5.4. Parties to this protocol may disclose information to other parties for these purposes providing that individual protocols applicable to each organisation for data protection are observed. Every request for information under the Act must be made in writing giving reasons why disclosure is necessary
- 5.5. Information supplied must only be used for the purpose for which it is obtained, must be securely retained whilst in the possession of the party 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 party that supplied the information
- 5.6. All parties must strive to ensure that they possess a secure mechanism of transferring data as required by e-governance

6. Enforcement Activity

- 6.1. Enforcement activity taken in respect of breaches of legislation and licence conditions will remain the primary responsibility of the party designated for each piece of legislation, but the outcome of such action should be provided to the Licensing Authority and fed into the process for determining applications and reviewing the status of licenses. Information about enforcement activity may include the following
- Name & address of premises/personal licence holder
 - Details of people interviewed
 - Witness statements
 - Times and dates of inspections
 - Names of enforcement officers
 - Offences committed
 - Advice given
 - Enforcement action
- 6.2. Any licensing inspection carried out by an appropriate responsible authority, whether or not any enforcement activity took place, may inform in writing the details of the inspection to the appropriate licensing authority within 10 working days. Details of the inspection shall include the information as required in section 6.1
- 6.3. From time to time, however, it may be expedient for joint inspections and enforcement to be carried out by officers from one or more parties.
- 6.4. Joint inspections will normally be conducted on the basis of a risk assessment applied to all licensed premises, or in response to specific complaints. Responsibility for seeking a joint inspection or enforcement will rest with the Responsible Authority with the expertise in dealing with the complaint in question (e.g. the Environmental Health Service for prevention of nuisance; the Fire & Rescue Service for fire risk and public safety issues, and Police for crime and disorder matters and Trading Standards for underage sales, drinks substation etc)
- 6.5. The Licensing Authority will maintain a database containing information relating to licensing intelligence; and inspection and enforcement carried out within their Licensing Authority area in Oxfordshire. Responsible Authorities will provide The Licensing Authority with licensing intelligence; and information of inspections or enforcement carried out in relation to licensed premises and personal licence holders within their Licensing Authority area in Oxfordshire in order for the database to be maintained

7. Relevant legislation

- 7.1. Relevant legislation and details of offences are shown in Appendix B.

8. Enforcement Options

- 8.1. The relevant options are as follows:
- To take no further action
 - To take informal action that may include a written warning
 - To issue formal cautions
 - To take legal proceedings
 - To issue fixed penalty notices

- To issue enforcement notices
 - To issue formal notices
 - To issue prohibition notices
- 8.2. Informal action includes verbal warnings or requests for action and may involve the use of written correspondence and may be considered where:
- Circumstances do not warrant formal action OR
 - Confidence in the operator of the business is high OR
 - It is expected that informal action will achieve compliance
- 8.3. In order to safeguard the offender's interest, the following conditions should be met before a formal caution shall be administered.
- There must be evidence of the offenders guilt sufficient to give a realistic prospect of conviction
 - The offender must admit the offence
 - The offender must understand the significance of the formal caution and give formal written consent
- 8.4. In deciding whether a formal caution is appropriate Home Office guidance will be referred to as well as the following factors considered
- The nature of the offence
 - The likely penalty if an offender was convicted at court
 - The offenders health and state of health
 - Previous history
 - The offenders attitude towards the offence , including practical expression of regret
- 8.5. A refusal of a formal caution will normally result in a referral for prosecution.
- 8.6. Prosecutions will be considered where there has been a breach of standards and subject to each local authority's individual Statement of Licensing and Enforcement Policies.
- 8.7. Where a prosecution is appropriate it will be pursued in accordance with the Crown Prosecution Service guidelines and other current and relevant guidelines as appropriate.
- 9. Investigation of offences**
- 9.1. When the Licensing Authority or a Responsible Authority has become aware of an alleged offence and would like another more appropriate Responsible Authority (or the Licensing Authority) to take formal action, they will take the following steps:
- 9.2. Early discussion with the appropriate authority, including if appropriate (unless in cases of extreme urgency) the Licensing Authority;
- 9.3. Supply the relevant authority in a timely manner all of the relevant evidence (whether subsequently used or unused);
- 9.4. Set out in writing details of the alleged offence and request that the relevant authority take action; information to the relevant authority may include the following:
- Name & address of premises/personal licence holder

- Details of persons interviewed
- Relevant witness statements
- Times and dates of inspections
- Names of the enforcement officers
- Alleged offences committed

- 9.5. Once in receipt of a written request to take action the appropriate authority will;
- Asses the facts and take appropriate action
 - Inform the authority that initiated the complaint, any other relevant authority, and the Licensing Authority of the action taken, and reasons why.

10. Responsibility for Prosecutions

- 10.1. Section 186 of the Licensing Act provides that proceedings for offences under the Act may be instituted by:
- the Licensing Authority
 - the Director of Public Prosecutions
 - for offences under Ss. 146 and 147, the Local Weights and Measures Authority (Oxfordshire County Council – Trading Standards)
- 10.2. It is expected that the Responsible Authority will normally bring proceedings, including the issue of formal cautions, as a result of offences under the Licensing Act 2003 which they have investigated, unless, in the case of some minor offences, it is specifically agreed that the Licensing Authority will do so. (This may, for example, be part of a prosecution which relates to a series of matters of which the offences form part).
- 10.3. In all other cases, the Licensing Authority will be the prosecuting authority.

11. Notification of prosecutions and cautions

- 11.1. Notwithstanding the duty of the court in section 131 (duty to notify the Licensing Authority of convictions) the appropriate prosecuting authority will inform the Licensing Authority within five working days of the end of the period for appeal of any conviction or caution in relation to licensed premises or personal licence holders.
- 11.2. 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; and
 - the details of any conviction including any order under section 129 of the Act.

12. Register of Cautions

- 12.1. The Responsible Authority will inform the Office of Fair Trading of licensing offences where formal cautions are issued to holders of personal licenses, premises licenses, club premises certificates or persons issuing a temporary event notice.

13. Liaison between parties to this agreement

- 13.1. Local liaison meetings will normally take place between the Licensing Authority and the Responsible Authorities on a monthly basis, or depending on the nature and

quantity of business at a less frequent period as agreed but will take place not less than annually.

- 13.2. Responsible Authorities will determine the basis for liaising with each other, but this will be not less than annually.

14. Liaison regarding applications

- 14.1. The Licensing Authority will liaise with responsible authorities on applications where required or appropriate.

15. Applications for review of a licence

- 15.1. This document recognises the right to request a review of a licence or club premises certificate by any Responsible Authority or interested party to apply to the Licensing Authority.

16. Procedural Review

- 16.1. All parties to this Memorandum of Understanding and Joint Enforcement Protocol shall periodically review this document to ensure that it maintains a suitable response and working arrangement for all licensing functions under the Licensing Act 2003 and achieves necessary feedback to assist in meeting statutory objectives.
- 16.2. It is suggested that the first review should take place not later than one year following the Second Appointed Day, 24 November 2006.

Licensing Authorities

Chief Executive
Cherwell District Council

Signed

Chief Executive
Oxford City Council

Signed

Chief Executive
South Oxfordshire District Council

Signed

Chief Executive
Vale of White Horse District Council

Signed

Chief Executive
West Oxfordshire District Council

Signed

Responsible Authorities

Chief Executive
Oxfordshire County Council

Signed

Basic Command Unit Commander Oxfordshire
Thames Valley Police

Signed

Appendix A

ORGANISATION	CONTACT	TELEPHONE	EMAIL
Cherwell District Council	Licensing	(01295) 221535	elections.licensing@cherwell-dc.gov.uk
	Environmental Health	(01295) 252535	environmental.services@cherwell-dc.gov.uk
Oxford City Council	Licensing	(01865) 252565	licensing@oxford.gov.uk
	Environmental Protection	(01865) 252296	noise@oxford.gov.uk
	Health and Safety (food)	(01865) 252480	foodsafety@oxford.gov.uk
	Health and Safety	(01865) 252553	safety@oxford.gov.uk
South Oxfordshire District Council	Licensing	(01491) 823000	licensing@southoxon.gov.uk
	Environmental Health	(01491) 823000	env.health@southoxon.gov.uk
Vale of the White Horse District Council	Licensing	(01235) 540304	licensing.unit@whitehorsedc.gov.uk
	Environmental Health	(01235) 520202	
West Oxfordshire District Council	Licensing	(01993) 861636	licensing@westoxon.gov.uk
	Environmental Health (food)	(01993) 861060	foodhealthandsafety@westoxon.gov.uk
	Environmental Health (noise)	(01993) 861000	environmentalprotection@westoxon.gov.uk
Oxfordshire County Council	Fire & Rescue (North)	(01295) 759022	fire.service@oxfordshire.gov.uk
	Fire & Rescue (South)	(01235) 213027	fire.service@oxfordshire.gov.uk
	Fire & Rescue (City)	(01865) 258503	fire.service@oxfordshire.gov.uk
	Fire & Rescue (Vale)	(01235) 546042	fire.service@oxfordshire.gov.uk
	Fire & Rescue (West)	(01993) 201680	fire.service@oxfordshire.gov.uk
	Trading Standards	0845 051 0845	trading.standards@oxfordshire.gov.uk
	Social & Health Care	(0800) 833408	shc@oxfordshire.gov.uk
Thames Valley Police	Licensing (North)	(01295) 754612	licensingbanbury@thamesvalley.pnn.police.uk
	Licensing (South)	(01235) 556845	licensingabingdon@thamesvalley.pnn.police.uk
	Licensing (City)	(01865) 266109	licensingOxford@thamesvalley.pnn.police.uk

Appendix B**Current Relevant Legislation**

Licensing Act 2003 – provides a clear focus on the promotion of the licensing objectives; introduces regulation to give customers more choice, whilst providing the necessary protection for local residents and interested parties.

Police Act 1964 – imposes a primary responsibility on the Police Authority to maintain an adequate and effective Police Force.

Fire & Rescue Services Act 2004 – places a duty on the Fire Authority to provide efficient arrangements for the giving, when requested, of advice in respect of buildings and other property as to fire prevention, restricting the spread of fires and means of escape in case of fire.

Crime & Disorder Act 1998 – places a statutory requirement on Police Services, Local Authorities and other agencies to tackle crime and disorder by working in partnership.

Health and Safety at Work Act 1974 – The Health and Safety at Work provides the basis of health and safety law. It places general duties on all people at work, including employers, employees, the self employed and people in control of premises.

Environmental Protection Act 1990 – Part 2 of The Environmental Protection Act 1990 places certain obligations on businesses to ensure that their waste is suitably contained and disposed of in a proper manner. Part 3 gives the Council's duties and powers in respect of Statutory Nuisance including noise.

Anti-Social Behaviour Act 2003 - The Anti-social Behaviour Act gives the police, local authorities and other agencies such as registered social landlords powers to combat anti-social behaviour.

Legislation listed in Schedule 4 of the Licensing Act 2003

Offences

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

Note abbreviations, as follows:

- LA = Licensing Authority
- CPC = Club Premises Certificate
- DPS = Designated Premises Supervisor
- PLH = Premises Licence Holder
- AO = Authorised Officer
- TS = Trading Standards

SECTION	OFFENCE	AUTHORITY
33 (6)	Failure to notify LA of change of name or address PLH or DPS	LA
40 (2)	Failure to notify existing DPS of variation to premises licence to exclude them	LA
41 (5)	Failure to provide premises licence to LA upon removal of DPS	LA
46 (4)	Failure to notify DPS of application for transfer of premises licence	LA
49 (5)	Failure to notify DPS of grant of interim authority notice	LA
56 (3)	Failure to provide premises licence at request of LA for amendment	LA
57 (4)	Failure to keep or display premises licence on premises	LA
57 (7)	Failure to produce premises licence to an AO for examination	LA
59 (5)	Obstruction of an AO entering premises to inspect before grant of a licence, review or a statement	LA
82 (6)	Failure to notify of change of name or alteration of rules of a club	LA
83 (6)	Failure to notify of a change of registered address of club	LA
93 (3)	Failure to produce CPC for amendment within 14 days of LA request	LA
94 (5, 6, 9)	Duty to keep, display and produce club premises certificate at premises	LA
96 (6)	Inspection of premises before grant etc of club premises certificate	LA
108 (3)	Obstruction of an AO in inspecting temporary event premises	LA or Police
109 (4)	Failure to keep or display temporary event notice on premises	LA
109 (8)	Failure to produce temporary event notice to an AO	LA
123 (2)	Failure to notify LA of conviction for relevant offence during application or renewal period	LA
127 (4)	Failure to notify LA of change of name or address of personal licence holder	LA
128 (6)	Fail to notify court of personal licence or "notifiable event" when being dealt with for a relevant offence	LA or Police

SECTION	OFFENCE	AUTHORITY
132 (4)	Failure to notify LA of conviction for relevant or foreign offence	LA
134 (5)	Failure to produce personal licence within 14 days to LA for updating	LA
135 (4)	Failure to produce personal licence to an AO whilst on premises to sell or authorise sale of alcohol	LA or Police
136 (1)	Allowing licensable activities otherwise than in accordance with an authorisation including breach of conditions.	LA or Police
137 (1)	Unauthorised exposure for retail sale of alcohol	LA or Police
138 (1)	Unauthorised possession of alcohol with intent to sell or supply	LA or Police
140 (1)	Allowing disorderly conduct on licensed premises	LA or Police
141 (1)	Sale or supply of alcohol to person who is drunk	LA or Police
142 (1)	Obtaining alcohol for a person who is drunk	LA or Police
143 (1)	Failure to leave licensed premises following a request from a PC or AO	Police
144 (1)	Keeping unlawfully imported goods on relevant premises	Police or Customs and Excise
145 (1)	Allowing unaccompanied children under 16 on relevant premises when alcohol is being supplied	LA or Police
146 (1, 2, 3)	Sale or supply of alcohol to children under 18	TS or Police
147 (1, 3)	Allowing sale or supply of alcohol to children under 18	TS or Police
148 (1, 2)	Sale or supply of liqueur confectionery to children under 16	LA or Police
149 (1, 3, 4)	Purchase or supply of alcohol by or on behalf of children under 18	LA or Police
150 (1, 2)	Consumption on relevant premises of alcohol by children under 18, or knowingly allowing it to occur	LA or Police
151 (1, 2, 4)	Delivering or permitting others to deliver alcohol to children under 18	LA or Police
152 (1)	Sending a child under 18 to obtain alcohol for consumption	LA or Police
153 (1)	Permitting children under 18 to sell or supply alcohol children	LA or Police
156 (1)	Sale of alcohol in or from a moving vehicle	Police
158 (1)	False statement in connection with a licensing application	LA
160 (4)	Keeping premises open in contravention of an area closure order	LA or Police
161 (6)	Permitting premises to be open in contravention of a premises closure order	LA or Police
165 (7)	Permitting premises to be open in contravention of a Magistrates' closure order	LA or Police
179 (4)	Obstructing entry by a PC or an AO to premises to check on the carrying out of licensable activity	Relevant responsible authority