

**LICENSING AND SAFETY COMMITTEE  
08 FEBRUARY 2010**

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**LICENSING ENFORCEMENT PROTOCOL  
(Chief Officer: Environment and Public Protection)**

**1 INTRODUCTION**

- 1.1 The Council and Thames Valley Police work in partnership to enforce the Licensing Act 2003 in relation to the sale of alcohol to persons under 18 years old. A Licensing Enforcement Protocol has been produced with Thames Valley Police to outline the approach that will be taken when enforcing the Act, with the aim of providing guidance for officers, businesses, consumers and the public. The Protocol can be found at Appendix A.

**2 SUPPORTING INFORMATION**

- 2.1 The Licensing Enforcement Protocol takes account of the requirements of the Regulators' Compliance Code and Bracknell Forest Council's Enforcement Policy.
- 2.2 The Council and Thames Valley Police will continue to carry out both routine and intelligence-led test purchases in premises where alcohol is sold to test the robustness of retailers' policies. Where sales to underage persons occur, action will be taken in line with the relevant enforcement policies, which will include educational advice to the business.
- 2.3 This strategy will be reviewed annually or when it is judged appropriate to do so by the Council or Thames Valley Police.

**3 IMPACT ASSESSMENT**

- 3.1 There are no implications arising from this report.

**4 STRATEGIC RISK MANAGEMENT ISSUES**

- 4.1 There are no strategic risk management implications arising from this report.

Background Papers

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003

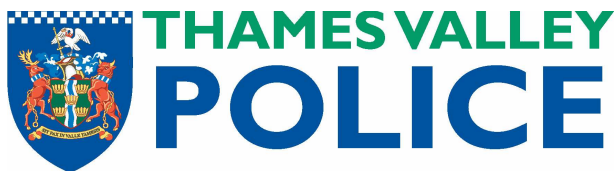
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## **BRACKNELL FOREST COUNCIL AND THAMES VALLEY POLICE (BERKSHIRE EAST BCU)**

### **STRATEGY OF ENFORCING THE LICENSING ACT 2003 IN RELATION TO SALE OF ALCOHOL TO CHILDREN AND YOUNG PEOPLE**

#### **1. Introduction**

- 1.1 Bracknell Forest Council (BFC) and Thames Valley Police (TVP) work in partnership to enforce the Licensing Act 2003 ('the Act') in relation to the sale of alcohol to persons under 18 years old. This document outlines the approach the Partnership will take when enforcing the Act, which takes account of the requirements of the Regulators' Compliance Code and Bracknell Forest Council's Enforcement Policy.
- 1.2 The purpose of this document is to ensure efficient and effective co-operation within the Partnership through open communication and sharing of intelligence. Where possible, enforcement activities in relation to licensed premises will be coordinated to maximise the effectiveness of any enforcement.
- 1.3 When making a decision on whether to take enforcement action, each case will be considered on its own merits, in accordance with relevant enforcement policies and this strategy.
- 1.4 This strategy is intended to provide guidance for officers, businesses, consumers and the public. It does not fetter the discretion of the parties involved to take other action which they deem to be reasonable and proportionate. Any departure from the strategy should be documented and reasons noted.
- 1.5 This strategy will be reviewed annually or when it is judged appropriate to do so by the Partnership.

#### **2. Licensing Act 2003**

- 2.1 The purpose of the Licensing Act 2003 is to promote the following four objectives:
  - Prevention of Crime and Disorder
  - Public Safety
  - Prevention of Public Nuisance
  - Protection of Children from Harm
- 2.2 Section 146 of the Act makes it an offence to sell alcohol to an individual under the age of 18, and section 147 makes it an offence to knowingly allow the sale of alcohol to an individual under the age of 18. The person selling the alcohol must take all reasonable steps to establish the individual's age.
- 2.3 Section 149 makes it an offence for a person under the age of 18 to buy or attempt to buy alcohol unless this is at the request of a constable or a weights and measures inspector who is acting in the course of his duty. It also makes it an offence for a person to buy or attempt to buy alcohol on behalf of an individual aged under 18.

- 2.4 The Partnership will take a range of actions to reduce or eliminate the sale of alcohol to underage persons, and take responsibility for reducing the consumption of alcohol by under 18s and to reduce access to alcohol by that group.

### **3. Preventative Approach**

- 3.1 The Partnership will seek to engage the community, whereby both new and existing strategies concerned with young people include a reference to the impact of alcohol on persons under 18 years of age. The Partnership will seek to ensure that coordinated action is taken to address the issue of children and alcohol.

### **4. Educational Approach**

- 4.1 The Partnership will work with retailers to raise awareness of and improve compliance with the law in relation to sales of alcohol. It will promote and support schemes such as Challenge 21 and Challenge 25 and encourage retailers to insist on the production of a valid proof of age identity document.
- 4.2 The Partnership will carry out both routine and intelligence-led test purchases in premises where alcohol is sold to test the robustness of retailers' policies. Where sales to underage persons occur, action will be taken in line with the relevant enforcement policies, which will include educational advice to the business.

### **5. Enforcement Options: Unauthorised Purchase or Possession of Alcohol by Underage Persons**

- 5.1 The Police Officer shall consider all the circumstances involved in the situation. The officer has the option to:
- (a) Take the young person home and deliver him/her to a responsible adult
  - (b) Take appropriate action with a view to a Reprimand or Final Warning
  - (c) Consider if prosecution is appropriate (suggested where a Reprimand or Final Warning has already been issued).

### **6. Enforcement Options: Sales of Alcohol to Underage Persons**

- 6.1 If a test purchase results in the sale of alcohol, the options detailed in 6.4 are available for action against Premises Licence Holders (PLH), Designated Premises Supervisors (DPS) and Sellers.
- 6.2 For second or subsequent offences, consideration may be taken of the time difference between offence dates.
- 6.3 At the outset of any partnership working, the agencies will agree who will take the lead for any enforcement actions arising from the work undertaken. The actions listed below are possible scenarios and for consistency each enforcement agency should agree those actions as appropriate in a particular case.

## 6.4 **First Offence**

- (i) TVP to issue a Fixed Penalty Notice (FPN) to the Seller.
- (ii) Invite the PLH (or their representative) and DPS to attend a Premises Performance Meeting. Failure to engage will be recorded and may be used in subsequent reviews.
- (iii) Where necessary, issue a written warning to the PLH requiring them to review their procedures, take effective steps to prevent a recurrence and submit their amended procedures to the Partnership with 28 days of receiving the warning.

## **Second or Subsequent Offence**

- (i) If same Seller as on previous occasion, interview Seller under caution in accordance with PACE and consider prosecution. If it is a different Seller at the same premises, TVP to issue a FPN to the Seller.
- (ii) Invite the PLH and/or DPS to an interview under caution in accordance with PACE and consider prosecution.
- (iii) TVP or Trading Standards may seek a review of the premises licence, independent of any other enforcement action. Normal practice would be for the Partnership to jointly agree the need for and proposed outcome before starting a review.

**NB:** If a FPN is issued then no further action can be taken by TVP as the FPN negates any further action. If a FPN is refused or not paid then the individual concerned may be reported for consideration of prosecution.

## **7. Reviews of Premises Licences**

- 7.1 A Responsible Authority seeking a review will be expected to seek an informal resolution to the matter if possible or appropriate. If the matter proceeds to hearing, it may be useful to demonstrate that alternative approaches to dealing with the situation have been attempted.
- 7.2 The review of a licence should not normally be considered as an action for a first offence
- 7.3 In seeking a review of the premises licence, the Responsible Authority will specify its recommendations which may include one or more of the following:
  - (a) Modification or addition of conditions to the licence
  - (b) Exclusion of a licensable activity from the licence
  - (c) Removal of the DPS
  - (d) Suspension of the licence for a period not exceeding 3 months
  - (e) Revocation of the licence

## **8. Prosecutions and Cautions**

- 8.1 The lead party in respect of the test purchase exercise will normally take the lead in respect of the prosecution of a premises licence holder or designated premises supervisor.
- 8.2 On prosecution for a relevant offence, the Partnership may request the suspension or forfeiture of the Personal Licence.