



**Civic Government (Scotland) Act 1982  
(As Amended) Enforcement Concordat**  
Principles of good enforcement

# Introduction

South Lanarkshire Council has endorsed this Enforcement Policy in respect of certain activities licensed under the Civic Government (Scotland) Act 1982 (as amended). The Policy reflects the ethos contained in the Policy document drawn up by each Licensing Division in November 2010 which related purely to liquor licensing. Given the changes due to be introduced by the Air Weapons and Licensing (Scotland) Act 2015, it is appropriate to introduce an Enforcement Policy to cover some areas licensed under the Civic Government (Scotland) Act 1982. It will relate mainly to licensing of premises (e.g. Late Hours Catering, Second Hand Dealers, Public Entertainment, Booking Offices), but also to Taxi Ranks and Street Traders.

This Enforcement Policy sets out, in the Council's view, the best practice which the Licensing Standards Officers (LSOs) will employ when carrying out their duties under the Civic Government (Scotland) Act 1982.

South Lanarkshire Council has two LSOs who cover the whole of the Council's area. The same two officers are also Licensing Standards Officers for the purposes of the Licensing (Scotland) Act 2005.

Licensing Standards Officers will investigate allegations of unlicensed activities, ensure that licence conditions are complied with and provide information, guidance and a mediation service. The LSOs are based within Administration and Legal Services in Finance and Corporate Resources.

There is a firm commitment to ensure that the LSOs are given all assistance necessary to enable them to carry out their functions efficiently and effectively including participating as members of the various Licensing Focus Groups.

## **The LSOs will carry out the roles and responsibilities set out under the Act, including:**

- providing guidance and information on the operation of the legislation in South Lanarkshire;
- checking that licence holders are complying with the terms of the legislation and their licence conditions;
- providing a mediation service in order to resolve disagreements and disputes between licence holders and other persons. Both LSOs are trained in mediation;
- investigating complaints.

The Licensing Authority is entitled to make such enquiries as it sees fit when considering an application under the Act. This may involve calling for a report from the Licensing Standards Officers at that time. If that is the case the applicant will be given a copy of the report prior to the hearing at which the application will be dealt with.

After the investigation of a complaint, the Licensing Standards Officer may prepare a report to the Licensing Committee with a view to requesting that the Licensing Committee suspend the licence in terms of the Act.

The aim of the Policy is to help licence holders comply with the licensing conditions contained in their licence and to meet their obligations under the legislation. Alongside the operation of the Policy it needs to be made clear to the licence holder that there will be circumstances when it will be appropriate for the licence holder to seek their own independent legal advice. It is recognised that in some circumstances it may be required to bring the matter before the Licensing Committee.

**This table summarises the options employed by the LSOs within South Lanarkshire when visiting licensed premises under the Civic Government (Scotland) Act 1982, as amended.**

Principles of good enforcement		Implementation	
Policy	Procedures	Options	Aim
Standards	<ul style="list-style-type: none"> <li>▪ Consult with business and stakeholders in setting standards for level of service and performance.</li> <li>▪ Monitor performance</li> </ul>	<ul style="list-style-type: none"> <li>▪ Publish openly</li> <li>▪ Collaborative auditing</li> <li>▪ Look for feedback</li> </ul>	<ul style="list-style-type: none"> <li>▪ Where possible implement suggestions raised as a result of feedback</li> </ul>
Openness	<ul style="list-style-type: none"> <li>▪ Provide information on regulations and enforcement practice</li> <li>▪ Discuss compliance failures or problems with anyone experiencing difficulties</li> </ul>	<ul style="list-style-type: none"> <li>▪ Disseminate information widely</li> <li>▪ Be approachable to business</li> </ul>	<ul style="list-style-type: none"> <li>▪ Accompanying inspections with helpful information</li> <li>▪ Well researched and relevant compliance guidance</li> <li>▪ Following up contact with businesses/ licence holders to avoid repeat problems</li> </ul>
Helpfulness	<ul style="list-style-type: none"> <li>▪ Clear advice confirmed in writing using Plain English</li> <li>▪ Distinguish between best practice advice and legal requirements</li> <li>▪ Give a clear explanation of the need for any immediate action</li> <li>▪ Focus on preventative activity</li> <li>▪ Where necessary refer to own independent legal adviser</li> <li>▪ Joint initiatives with Police Scotland</li> </ul>	<ul style="list-style-type: none"> <li>▪ Provide clear information on legislative requirements</li> <li>▪ Engage with licence holders</li> <li>▪ Attend focus groups</li> <li>▪ Attend trade meetings where appropriate</li> </ul>	<ul style="list-style-type: none"> <li>▪ All issued in Plain English</li> <li>▪ Face-to-face advice and assistance</li> <li>▪ Assisting compliance where necessary</li> <li>▪ Regular contact with stakeholders</li> <li>▪ Creating a higher profile for initiatives to improve awareness of issues</li> </ul>
Complaints about service	<ul style="list-style-type: none"> <li>▪ Explain complaints procedure at the time any formal action is taken</li> </ul>	<ul style="list-style-type: none"> <li>▪ Collate complaints and action taken, build evidence base to guide future activity</li> </ul>	<ul style="list-style-type: none"> <li>▪ Using a complaints/ comments database</li> <li>▪ Joined-up complaints process</li> <li>▪ User-friendly complaints and feedback systems</li> </ul>

Principles of good enforcement		Implementation	
Policy	Procedures	Options	Aim
Proportionality	<ul style="list-style-type: none"> <li>▪ Tailor enforcement action to risks to minimise costs of compliance</li> <li>▪ Bring to attention of Licensing Committee when proportionate to bring serious/repeat offenders to account and after consultation/mediation failed</li> </ul>	<ul style="list-style-type: none"> <li>▪ Target higher risk licensed premises/traders for formal action</li> </ul>	<ul style="list-style-type: none"> <li>▪ Priority planning for high-risk activities</li> <li>▪ Identifying problem traders</li> </ul>
Consistency	<ul style="list-style-type: none"> <li>▪ Have effective arrangements to promote consistency</li> </ul>		<ul style="list-style-type: none"> <li>▪ Using an 'Enforcement Management Model'</li> </ul>

## Standards

It is important that licence holders know what to expect when dealing with the LSOs. Feedback on visits carried out by the LSOs will be obtained by way of questionnaires. Consistently high levels of satisfaction appear to have been achieved.

Feedback obtained will be published and action plans prepared (if necessary) and acted upon.

## Scheme of Delegation

Applications lodged under the Civic Government (Scotland) Act 1982 are generally dealt with by the Licensing Committee, however, the following types of applications may be dealt with under delegated powers (without the need to go before Committee)

Function	Power	Restriction
Initial consideration of applications under Section 3(1) of the Civic Government (Scotland) Act 1982	Continue application	
All applications under the Civic Government (Scotland) Act 1982	Grant or refuse all applications where there:- <ul style="list-style-type: none"> <li>▪ are road traffic convictions</li> <li>▪ are non road traffic related fines under £500, whether cumulative or single</li> <li>▪ is a prison sentence of less than 2 years or where the conviction involved a crime of a serious nature attracting a significant penalty</li> <li>▪ are convictions relating to fines over 5 years old</li> <li>▪ are convictions relating to prison sentences of less than 30 months imprisonment which are over 7 years old"</li> </ul>	
	Decide whether there is sufficient reason to entertain an objection/representation/observation lodged by Police Scotland outwith the objection period.	
All renewals in terms of the Civic Government (Scotland) Act 1982	Grant where no adverse reports or comments are received in line with powers for all applications listed above	
To determine whether "good cause" has been shown in terms of Section 178 of the Criminal Justice and Licensing (Scotland) Act 2010	Accept or reject application for renewal of licence if received after date of expiry of existing licence but within 28 days of same	
Applications for substitute vehicles for taxi/private hire car operators	Grant or refuse	

<b>Function</b>	<b>Power</b>	<b>Restriction</b>
Approval of exterior advertising on taxis; advertisements on exterior front doors of taxis	Grant or refuse subject to criteria agreed by Committee	
Approval of requests for advertising on rear window stickers for taxis	Grant or refuse, in consultation with the Chair or Depute Chair of the Licensing Committee	
Approval of vehicles for use as taxis – criteria as agreed by Committee	Grant or refuse subject to criteria agreed by Committee	
Display of name and telephone number on private hire cars	Grant or refuse subject to criteria agreed by Committee	
Approval of taxi signs	Grant or refuse	
Approval of shared hire taxi signs	Grant or refuse	
Applications for taxis in the Clydesdale zone	Grant where no objection received	
Suspension of taxi/private hire car licences under Section 11 of the Civic Government (Scotland) Act 1982	Suspend to the expiry date of the licence or for such shorter period deemed appropriate	Subject to Safety Net Procedure
Applications for exemption from carrying assistance dogs in taxi and private hire car vehicles	Grant or refuse, in consultation with the Chair or Depute Chair of the Licensing Committee	
Applications for the installation of CCTV recording systems in taxi and private hire car vehicles	Grant or refuse, in consultation with the Chair or Depute Chair of the Licensing Committee, subject to consultation with Police Scotland and any appropriate conditions	
Applications for substitute vehicles for Street Traders	Grant where no objection received and subject to prior inspection by Environmental Health	
Applications for Street Trader licences (non-static)	Grant where no relevant objection received and subject to prior inspection by Environmental Health	Subject to Safety Net Procedure
Applications for Street Trader licences (static only) where applicant is an employee and where his/her employer has already been granted a licence for the areas requested by the employee	Grant where no relevant objection received	Subject to Safety Net Procedure
Applications for Public Entertainment licences	Grant where no adverse comments and no objections	

Function	Power	Restriction
Applications for Temporary Public Entertainment licences	Grant or refuse in consultation with Chair of Licensing Committee and local Members	
Applications for Metal Dealer licences	Grant or refuse	Subject to Safety Net Procedure
Applications for Itinerant Metal Dealer licences	Grant or refuse	Subject to Safety Net Procedure
Applications for Second-Hand Dealer licences	Grant where no adverse comments and no objections	
Applications for the reclassification of films under the Cinemas Act 1985	Grant or refuse in consultation with the Chair or Depute of Licensing Committee	
Applications for permission for Public Charitable Collections	Grant where no objections received and subject to statutory criteria being met	
Applications for the Registration of Societies/ Lotteries	Grant where no Police objection received	
Applications for Late Hours Catering licences	Grant where no adverse comments and no objections received if within guidelines	Subject to Safety Net Procedure
Applications for Variations of existing licences	Fix dates for Hearings	
All renewals in respect of the Cinemas Act, Theatres Act and other miscellaneous licensing	Grant where no adverse reports or comments are received	
Applications for the licensing of premises to undertake tattooing and skin piercing activities	Grant where no relevant objections are received	

**Note: Safety Net Procedure**

The Safety Net Procedure involves a copy of the matter in question being sent to the Chair and Depute of the Licensing Committee and the relevant local members with a request that they contact the Service involved within 7 days if they have any objection to the matter being granted. If no objection is received from any of those Members within that period, the application would be granted. If any comments are received from one of those Members within that period, the matter would be referred to the next available Committee. Where any item to which the Safety Net Procedure applies is contentious, this will automatically be referred to Committee for consideration.

## Openness (publication)

- Questionnaires available on our website [www.southlanarkshire.gov.uk](http://www.southlanarkshire.gov.uk)
- Enforcement policy on our website.
- Feedback will also be requested from the trade via our annual licensing newsletters which are sent out to all of our licensing customers.

## Helpfulness

Licensing Standards Officers will provide a courteous and efficient service. Our LSOs will carry official Council identification at all times and will identify themselves by name.

- A contact telephone number and email address for further dealings or information will be provided.
- Any guidance information will be written in plain English and will be available in a number of mediums for example, emails, website and larger print.

## Complaints about Service

- The Licensing and Registration team have their own bespoke complaints procedure which sits alongside the Council's Corporate Complaints Procedure.
- Standards of Service booklet now includes details of how to complain if standards not met.
- Our Complaints Charter explains that complaints and comments are actively welcomed and seen as a way of improving our service.
- Each complainer is written to at the end of the complaints process to get their views on the process and the outcome.
- Complaints are relayed to staff by way of a 'complaints newsletter' and roadshow.
- Staff member involved in complaint will receive a note of the outcome.

## Proportionality

The Licensing Standards Officers' response will be proportionate to the situation/circumstances. The Officers' response to most enforcement situations will be to co-operate with licence holders to ensure the licence holders comply with the conditions attached to their licence by being open and helpful, offering informal advice and providing the chance to discuss compliance issues. The overall aim of the team is to ensure the highest possible levels of compliance with the conditions attached to their licence issued under the Civic Government (Scotland) Act 1982, as amended and other legislation coupled with proportionate enforcement, in which requests for the suspension of a licence under this Act are reserved for the most serious offenders.

We will ensure that action is proportionate to the seriousness and persistence of the infringements and will take the minimum action necessary to ensure future compliance



# Consistency

It is important that the LSOs carry out their duties in a fair, equitable and consistent manner. Although our LSOs are expected to exercise judgement in individual cases, the Team has arrangements in place to promote consistency of approach.

The LSOs attend the networking group, called the Civic Networking Group, several times per year. This group enables LSOs to discuss issues of interest or concern with LSOs in neighbouring authorities.

A benchmarking exercise will be undertaken every two years to ensure that our standards are monitored and assessed objectively.

**In order to provide clarity, the LSOs will divide the licence holders into three categories:-**

**High Risk** – defined as licence holders which have been the subject of a request for a suspension of licence where the Committee has agreed not to suspend but issued a warning.

**Medium Risk** – defined as licence holders where an application for a licence has been granted for less than the three year period or issued subject to a warning. This category also includes premises which have been the subject of complaints.

**Low Risk** – defined as licence holders who have not been the subject of any complaints or requests for suspension before the Committee/ where the request for suspension has been refused and no warnings given. It is anticipated that premises which come under the Low Risk category would be inspected on an annual basis, where possible, unless the licence holder requested assistance on any matter.

# Self help list

## Identified Non-Compliance with the Civic Government (Scotland) Act 1982 as amended

Requirement	Yes/No	Remedy
Licence on the premises		Original or certified copy to be kept on premises. If licence is lost it must be reported to the Police and a replacement obtained from the local council office. A fee will be charged for a replacement licence.
Conditions of licence		Management and staff to be aware of conditions of licence, including any specific conditions added by Licensing Committee.
Days and Hours granted on licence		Staff to be aware of the days, times and activities that the licence permits.
Expiry date of licence		Check date licence expires and make provision at least two months before this date for renewal of licence.  <b>Best Practise</b> - note this date in work diary. Onus on licence holder to renew prior to expiry of existing licence.
Is the licence damaged in any way?		You must not change or damage your licence. You must take it to be checked at your local office if asked to do so.
Premises no longer trading under terms of licence		If you are no longer using the premises for licensed activity for more than two months of the period the licence applies to, or if the licence has run out, you must, within seven days of this happening, tell your local office and send your licence to them.



If you need this information in another language or format, please contact us to discuss how we can best meet your needs.

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