

# **D R A F T**

## **LICENSING ACT 2003 JOINT ENFORCEMENT PROTOCOL**

### **BETWEEN**

**WIRRAL LICENSING AUTHORITY**

**MERSEYSIDE POLICE**

**MERSEYSIDE FIRE AND RESCUE SERVICE**

**WIRRAL ENVIRONMENTAL HEALTH SERVICE**

**WIRRAL TRADING STANDARDS SERVICE**

**HM REVENUE AND EXCISE**

The above organisations are the Parties to this Protocol.

Each Party has an enforcement role under the Licensing Act 2003 (“the Act”) and recognises the importance of effective co-operation and liaison to ensure premises licence holders; designated premises supervisors; personal licence holders; and club premises certificate holders understand and comply with the law.

This Protocol sets out the steps that have been agreed to achieve that aim.

### **Enforcement**

Both joint and separate inspections will be carried out by the Licensing Authority’s authorised officers and officers from the relevant responsible authority.

Inspections will be conducted on the basis of a standard Risk Assessment applied to all licenced premises, this document is attached in Appendix 1, or in response to a specific complaint. Responsibility for deciding on a joint inspection will rest with the responsible authority with the expertise for dealing

with the complaint in question, for example Environmental Health will make decisions based on preventing nuisance.

### **Offences**

Section 186 of the Act provides that proceedings for offences under the Act may be instituted by:

- the Licensing Authority
- the Director of Public Prosecutions
- the Local Weights and Measures Authority for offences under section 146 or 147

The Parties agree that responsibility for enforcing and prosecuting the offences under the Act should be as follows:

<b>1.1 Section</b>	<b>Offence</b>	<b>Party</b>
33	Notification of change of name or address by premises licence holder or designated premises supervisor	Licensing Authority
40	Premises licence holder failing to notify designated premises supervisor of variation to premises licence	Licensing Authority
41	Failure to send premises licence to Licensing Authority upon removal of designated premises supervisor	Licensing Authority
46	Failure to notify designated premises supervisor of application for transfer of premises licence with interim effect or of actual transfer	Licensing Authority

49	Failing to notify designated premises supervisor of grant of interim authority notice	Licensing Authority
56	Failure to provide premises licence to be updated	Licensing Authority
57	Failure to secure safe custody of licence or certified copy of the licence at the premises or display the Licence Summary on the premises	Licensing Authority
59	Obstructing inspection of premises before the grant of a premises licence	Licensing Authority
82	Notification of change of name or alteration of rules of a club	Licensing Authority
83	Change of relevant registered address of club	Licensing Authority
93	Failure to provide club premises certificate to be updated	Licensing Authority
94	Duty to keep and produce club premises certificate	Licensing Authority
96	Obstructing the inspection of premises before the grant etc of club premises certificate	Licensing Authority
108	Right of entry when temporary event notice may be given	Licensing Authority or Merseyside Police
109	Failure to display temporary event notice on premises	Licensing Authority or Merseyside Police
123	Duty to notify licensing authority of convictions during application period	Licensing Authority

127	Duty to notify change of name or address	Licensing Authority
128	Duty to notify court of personal licence	Licensing Authority
132	Duty to notify Licensing Authority of convictions	Licensing Authority
134	Duty to produce Personal Licence to Licensing Authority within 14 days to be updated	Licensing Authority
135	Duty to produce personal Licence to an Authorised Officer whilst on premises	Licensing Authority Merseyside Police
136	Unauthorised licensable activities	Licensing Authority or Merseyside Police
137	Exposing alcohol for unauthorised sale	Merseyside Police
138	Keeping alcohol on premises for unauthorised sale	Merseyside Police
140	Allowing disorderly conduct on licenced premises	Merseyside Police
141	Sale of alcohol to person who is drunk	Merseyside Police
142	Obtaining alcohol for a person who is drunk	Merseyside Police
143	Failure to leave licenced premises	Merseyside Police
144	Keeping smuggled goods	Merseyside Police or HM Revenue & Excise
145	Unaccompanied children prohibited from certain premises	Licensing Authority Merseyside Police

146	Sale of alcohol to children	Merseyside Police or Trading Standards
147	Allowing the sale of alcohol to children	Merseyside Police or Trading Standards
148	Sale of liqueur confectionary to children under 16	Merseyside Police or Trading Standards
149	Purchase of alcohol by or on behalf of children	Merseyside Police or Trading Standards
150	Consumption of alcohol by children	Merseyside Police or Trading Standards
151	Delivering alcohol to children	Merseyside Police or Trading Standards
152	Sending a child to obtain alcohol	Merseyside Police or Trading Standards
153	Prohibition of unsupervised sales by children	Merseyside Police or Trading Standards
156	Prohibition on sale of alcohol on moving vehicles	Merseyside Police
157	Selling or attempting to sell alcohol on a train contrary to a prohibition order	Merseyside Police
158	False statements made for the purposes of the Act	Licensing Authority
160	Keeping premises open, or allowing premises to be kept open in breach of a closure order in respect of an identified area	Merseyside Police
161	Permitting premises to be open in contravention of a closure order for specified premises	Merseyside Police

165	Permitting premises to be open in contravention of a Magistrates Closure Order	Merseyside Police
168	Permitting premises to be open in contravention of a Magistrates Order pending reconsideration of conditions	Merseyside Police
179	Intentionally obstructing entry to an authorised person	Licensing Authority or Relevant Responsible Authority

Where the Licensing Authority would ordinarily be responsible for enforcement in accordance with the above provisions but the circumstances of the case concern premises in respect of which the Licensing Authority is the Premises Licence holder, or is the employer of any person alleged to have committed an offence under the Act, in such a case Merseyside Police will assume responsibility for any investigation and enforcement action.

### **Investigation of offences**

When a Party has become aware of an offence and would like another more appropriate Party to take formal action, they will take the following steps:

- early discussions with the appropriate Party, including (unless in cases of extreme urgency) the Licensing Authority's enforcement officer
- supply the relevant Party in a timely manner with all of the relevant evidence (whether subsequently used or unused)
- set out in writing details of the offence and request that the relevant Party take action

Once in receipt of a written request to take action the appropriate Party will:

- assess the facts and take appropriate action in accordance with the relevant enforcement Protocol for that Party

- act within a maximum of 15 working days of receipt of the complaint, unless immediate action is required
- inform the responsible authority that initiated the complaint of the action taken, and explain why it was decided to take the enforcement action that was taken

Regular liaison meetings will take place between the licensing officer and the Police Licensing Officer.

### **Register of cautions**

The Licensing Authority will maintain a register of formal cautions issued to holders of licences, certificates or permissions.

### **Notification of prosecutions and cautions**

Notwithstanding the duty of the court in section 131 (duty to notify Licensing Authority of convictions) the appropriate prosecuting authority will inform the Licensing Authority within five working days of any conviction or caution under the Act.

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

### **Applications for licence reviews**

This Protocol recognises the right of any Responsible Authority to apply to the licensing authority for a Premises Licence or Club Premises Certificate to be reviewed at any time.

Except in extreme cases (where there has been a serious risk to public safety, children, crime, or nuisance) the Responsible Authority seeking a review will be expected to:

- give an early indication to the Licensing Authority of the events requiring an application
- seek an informal resolution to the matter if possible or
- be able to demonstrate to the Licensing Act 2003 Sub-Committee that alternative approaches to dealing with the situation leading to the application have first been attempted or such action has been considered and the reason why such a course of action was not deemed appropriate.

### **Data protection and exchange of information**

Section 29 of the Data Protection Act 1998 allows for the exchange of information for the purposes of the prevention of crime or the apprehension of offenders.

Section 115 of the Crime and Disorder Act 1998 allows for information to be specifically exchanged between the police and the Licensing Authority.

Section 185 of the Act allows for the supply of information held by the Licensing Authority or Responsible Authority (including information obtained before the coming into force of the Act) between Responsible Authorities and the Licensing Authority for the purposes of facilitating the exercise of their functions under the Act. Such information must not be further disclosed to a third party. Every request for supply of such information under Section 185 should be made in writing giving reasons why disclosure is necessary.

Any such information supplied must only be used for the purpose for which it was 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.

### **Annual Report**

A joint annual report based on the financial year will be submitted to the Licensing Authority's Licensing Act 2003 Committee detailing enforcement action taken and problems encountered in relation to licensed premises. The



Licensing Authority will compile the report and each Party will provide such supporting information as may be requested.

Signed:

Authority:

Date:

Signed:

Authority:

Date:

Signed:

Authority:

Date:

Signed:

Authority:

Date:

Appendix 1

**Enforcement Risk Assessment**

Authority: \_\_\_\_\_

Name of Premises: \_\_\_\_\_

Address: \_\_\_\_\_

<b>Licensable Activity - Alcohol</b>	<b>Low – 1 (Late Night Refreshment)</b>	<b>Medium – 2 (Entertainment)</b>	<b>High – 3 (Alcohol)</b>	
<b>Location/Impact</b>	<b>None -1</b>	<b>Minor – 2</b>	<b>Significant -3</b>	
<b>Size of Premises</b>	<b>Small – 1</b>	<b>Medium -2</b>	<b>Large - 3</b>	
<b>Hours</b>	<b>upto 23:00 - 1</b>	<b>Between 23:00 and 02:00 - 2</b>	<b>Between 02:00 onwards - 3</b>	
<b>Management</b>	<b>Poor -3</b>	<b>Average – 2</b>	<b>Satisfactory – 1</b>	
<b>Member of the Public Complaints</b>	<b>None – 1</b>	<b>Minor -2</b>	<b>Significant -3</b>	
<b>Complaints Responsible Authority</b>	<b>If complaint received from Responsible Authority, this will be determined and will have an acceleration effect for priority.</b>			
<b>Has premises applied for licence</b>	<b>Yes – 0</b>	<b>No - 3</b>		
			<b>Total Number of points</b>	