



SHEFFIELD CITY COUNCIL Committee Report

Report of: Chief Licensing Officer, Head of Licensing

Date: Tuesday 4th June 2013

Subject: Enforcement Policy

Author of Report: Steve Lonnia
Chief Licensing Officer & Head of Licensing

Summary: To inform and update members with regards the process of publishing an enforcements policy specific to designated stadiums, regulated stands, other grounds, concerts, festivals and other events.

Recommendations: To approve the policy document

Background Papers: None

Category of Report: OPEN

REPORT OF THE CHIEF LICENSING OFFICER & HEAD OF LICENSING

Safety of Sports Grounds Act 1975 (As Amended)

June 2013

Enforcement Policy

1.0 Summary and Purpose of Report

- 1.1 To inform and update members with regards to the process of publishing an enforcement policy specific to designated stadiums, regulated stands, other grounds, concerts, festivals and other events.
- 1.2 To confirm the decision of the Chief Licensing Officer & Head of Licensing and approve the enforcement policy attached at Appendix "A".

2.0 Background

- 2.1 As members will be aware the service has a statutory responsibility under the Safety of Sports Grounds Act 1975 (1975 Act), the Fire Safety and Safety at Places of Sport Act 1987 (1987 Act) and the Licensing Act 2003 (2003 Act) to enforce the provisions of the Act and any conditions attached to certificates / licences and permissions etc.
- 2.2 As a matter of "Best Practice" it was agreed that we establish a separate enforcement protocol for sports grounds and events etc.
- 2.3 The policy has been drafted following consultation with the Sports Grounds Safety Authority, Safety Advisory Group and all the relevant stadiums and organisations.

3.0 Legislation

- 3.1 All enforcement activities have to be conducted in compliance with the statutory powers of the officer and the relevant legislation including but not limited to the Police & Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, Human Rights Act 1998, Regulatory Investigatory Powers Act 2000, Criminal Justice and Police Act 2001 and the Crime & Disorder Act 1998 and any associated regulations and codes of practice.

3.2 The policy has been written and our principles informed by the Regulators Compliance Code, the Enforcement Concordat and the Guidance of the Local Better Regulation Authority (LBRO).

4.0 Sports Grounds Safety Authority

4.1 The Sports Grounds Safety Authority previously known as the Football Licensing Authority are responsible for monitoring / auditing the local authority in its role as the certifying authority under the 1975 Act and 1987 Act.

4.2 The local inspector for the Sports Grounds Safety Authority was involved in the review process and has assisted with the review of the policy.

4.3 The policy has been written and informed by the Sports Grounds Safety Authority Guidance.

5.0 Safety Advisory Group

5.1 The safety advisory group were involved and consulted during the drafting of the policy document.

5.2 The safety advisory group have approved the policy.

6.0 Delegated Authority

6.1 The Council has delegated its powers for the safety certification of sports grounds under the 1975 Act and the 1987 Act to The Chief Licensing Officer & Head of Licensing through the Licensing Committee if necessary.

6.2 The delegated powers allow for the designated Council Officer above to issue and amend General Safety Certificates etc.

6.3 Licensing is the lead department for the Local Authority with regards to the safety certification process.

7.0 The Policy

7.1 The policy clearly sets out the principles of good regulation and that we recognise that our regulatory activities should be carried out in a way that is proportionate, accountable, consistent, transparent and targeted.

7.2 The policy in paragraphs 7.2 to 7.7 sets out the key enforcement options that are available to us and how we will interpret and use each option.

- 7.3 The document also clearly sets out how decisions on enforcement will be taken and who those decisions may involve.
- 7.4 Paragraph 12 of the policy sets out our commitment to continually monitor and review the policy.

8.0 Recommendation

- 8.1 That members approve the attached policy

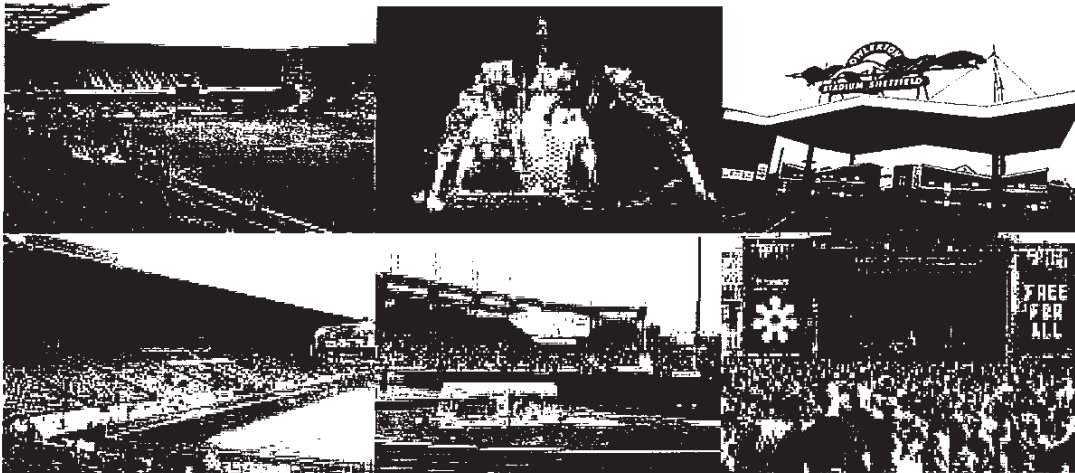
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June 2013

Sheffield
City Council



Enforcement Policy



Covering designated stadiums, regulated stands, other grounds, concerts, festivals and other events

Date of issue: April 2013

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Document Author: Steve Lonnia

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1.0 INTRODUCTION

- 1.1 This document sets out what designated sports stadiums, regulated stands, certificate and licence holders and other grounds or events that fall within the remit of the Safety Advisory Group process can expect from Sheffield City Council's Licensing Service and their licensing officers with regards to enforcement.
- 1.2 It commits the service to good enforcement practice with effective procedures and clear policies.
- 1.3 The document has been written with regard to current principal legislation, associated regulations and statutory guidance.
- 1.4 The service is required to have regard to the principles of good regulation and we recognise that our regulatory activities should be carried out in a way which is:-
 - Proportionate;
 - Accountable;
 - Consistent;
 - Transparent; and
 - Targeted
- 1.5 The policy has also been prepared having regard to The Enforcement Concordat: Good Practice for England and Wales and the Principles of Good Enforcement: Proportionality and Consistency as well as the Human Rights Act 1998 and the Code for Crown Prosecutions.
- 1.6 We recognise that prevention is better than cure, but where it becomes necessary to take formal enforcement action we will do so. There is a wide range of tools available to us as an enforcement agency. The actions we make take include:-
 - No Action
 - Informal Warning
 - Prohibition Notice
 - Reduction in Capacity
 - Simple Caution
 - Prosecution
- 1.7 When considering enforcement action we will where appropriate and reasonably practicable discuss the circumstances with the stadium(s) / individual(s) concerned before deciding on the best approach. This paragraph does not apply where immediate action is required or to do so would defeat the purpose of the proposed enforcement action.

2.0 LEGAL STATUS OF THIS ENFORCEMENT POLICY

- 2.1 The Licensing Committee approved this policy on
- 2.2 The Cabinet Member for Licensing approved the policy on
- 2.3 The Safety Advisory Group approved the policy on
- 2.4 This policy is intended to provide guidance for licensing officers, designated sports stadiums, regulated stands, certificate and licence holders and other grounds or events that fall within the remit of the Safety Advisory Group process.

3.0 SCOPE AND MEANING OF ENFORCEMENT

- 3.1 This policy applies to all designated sports stadiums, regulated stands, certificate and licence holders and other grounds or events that fall within the remit of the Safety Advisory Group process..
- 3.2 Enforcement includes any criminal or civil action taken by the licensing service aimed at ensuring designated sports stadiums, regulated stands, certificate and licence holders and other grounds or events that fall within the remit of the Safety Advisory Group process
- 3.3 It is intended that this policy will enable licensing officers will interpret and apply legal requirements and policies fairly across all like regulated entities in similar situations. It also aims to ensure licensing officers interpret and apply their legal responsibilities and policies consistently and fairly.

4.0 HOW TO OBTAIN A COPY OF THE POLICY OR MAKE COMMENTS

- 4.1 This Policy is available to view and/or download on the Sheffield City Council website at <http://www.sheffield.gov.uk>
- 4.2 If you would like a paper copy of this Policy and/or you would like to make comment on the Policy please contact us by:-
 - Emailing; general.licensing@sheffield.gov.uk
 - Writing to; The Licensing Service, Sheffield City Council, Block C, Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD
 - Telephoning; 0114 203 7752

5.0 GENERAL PRINCIPLES

- 5.1 Our principles are informed by The Regulators Compliance Code, the Enforcement Concordat and the Guidance of LBRO in relation to how to apply these documents.
- 5.2 Prevention is better than cure and we intend to work pro-actively to advise, support and assist with compliance and best practice.

- 5.3 We will take formal action where it becomes necessary and appropriate to do so.
- 5.4 Each and every case will be considered upon its own individual merits no matter which enforcement option is available.
- 5.5 All enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views, or sexual orientation. Any such decisions will also not be affected by improper or undue pressure from any source.
- 5.6 Sheffield City Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 5.7 All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the statutory powers of the officer and all other relevant legislation, including but not limited to the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, Criminal Justice and Police Act 2001, and the Crime and Disorder Act 1998 and in accordance with any formal procedures and codes of practice made under this legislation in so far as they relate to the City Councils enforcement powers and responsibilities.
- 5.8 This Policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

6.0 NOTIFYING ALLEGED OFFENDERS

- 6.1 If we receive information, for example from a complainant, that may lead to formal enforcement action against a company or individual we will notify that company or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public or where notification would defeat the purpose.
- 6.2 During the progression of enforcement investigations or enforcement actions, companies, individuals and witnesses will be kept informed of progress.
- 6.3 Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 1998.

7. ENFORCEMENT ACTION

7.1 The available enforcement options are;

- No Action
- Informal Warning
- Prohibition Notice
- Reduction in Capacity
- Simple Caution
- Prosecution

7.2 No Action

7.2.1 In certain circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the City Council outweighs the detrimental impact of the contravention on the public.

7.2.2 A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances. In such cases we will advise the offender and the complainant of the reasons for taking no action.

7.3 Informal Warning

7.3.1 Informal warnings would be an option where the transgression is not too serious and:-

- it is thought that informal action will achieve compliance;
- safety management being displayed is reasonably high and this method of enforcement will achieve the desired result;
- consequence of non-compliance will not pose a significant risk to health and/or safety of the public, and would only be a very short term issue.

7.3.2 Informal warnings may take the form of simple advice for example a verbal warning followed by a formal request for action in the form of letter, e-mail, or notice. The communication will contain all information necessary to ensure that the club/organisation knows what is required of them, why it is necessary and the timescales for completion.

The communication may:-

- indicate the regulations contravened and the measures that will achieve compliance with the legal requirements and that other means of compliance may be chosen;
- clearly indicate that recommendations of good practice are not legal requirements;
- clearly indicate the timescales for compliance.

7.4 Prohibition Notice

- 7.4.1 Section 10 of the 1975 Act enables the Council to issue a Prohibition Notice in respect of all or part of any sports ground if it considers that 'the admission of spectators to a sports ground or any part of a sports ground involves or would involve a risk to them so serious that, until steps have been taken to reduce it to a reasonable level, admission of spectators to the ground or that part of the ground ought to be prohibited or restricted'.
- 7.4.2 The Council needs to ensure that it can, if necessary be able to issue a notice in a very short space of time and without reference to senior officers or to members (see delegated powers). The issuing of a Prohibition Notice must be seen as a last resort and it can be appealed in a magistrate's court but prior to the hearing the Prohibition Notice stands.
- 7.4.3 Unlike the other provisions of the 1975 and 1987 Acts, the power to issue a Prohibition Notice applies to all sports grounds, as defined in section 17 of the 1975 Act, including those that are neither designated nor contain a regulated stand.
- 7.4.4 The Council has decided that when a Prohibition Notice is issued by the Chief Licensing Officer and Head of Licensing under delegated powers the club/organisation has the right of appeal to the Licensing Committee if necessary. Such an appeal would be processed and arranged as quickly as possible in order to assist the club.
- 7.4.5 If the Council considers and states in the notice that the risk to spectators is / or may be imminent then the notice takes effect as soon as it is served. In all other cases, it comes into force at the end of the period specified in the notice. The Council may amend or withdraw the notice at any time.
- 7.4.6 The notice should be clear as to what action is required to satisfy the notice and specify ways compliance can be achieved.

7.5 Reduction in Capacity

- 7.5.1 The Council can reduce the permitted capacity of all or part of a sports ground. This would be appropriate in the following situations:
- where an incident occurs that suggests that the management is performing unsuccessfully, the Council will review the (S) factor which affects the capacity of the ground. There may have been no incident but the performance of the management raises concerns re the control of the event;
 - where the Council's inspecting officers identify any deficiencies in the structure / fabric, equipment, records or management systems, which the authority has not already taken into account when accepting or calculating the permitted capacity, the (P) or (S) factor will be reviewed as appropriate.

- 7.5.2 The new capacity will be calculated having regard to the change in circumstances, and a new certificate will have to be issued (or an amendment to schedule 5 in the current certificate). Once the item causing concern has been rectified the capacity can be reassessed following assessment of the (P) or (S) factor.
- 7.5.3 The Council will follow the same procedures as during the routine annual review of the safety certificate for the setting of the (P) or (S) factor. It should invite the ground management to submit its proposed revised (P) or (S) factor, while reserving the right to overrule this if appropriate.
- 7.5.4 There is an onus on the Council to act reasonably and in accordance with due process, not least because the certificate holder has a right of appeal against any reduction in capacity.

7.6 Simple Caution

- 7.6.1 In appropriate circumstances, where a prosecution would otherwise be justified, a Simple Caution may be administered with the consent of the offender.
- 7.6.2 A Simple Caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.
- 7.6.3 For a Simple Caution to be issued a number of criteria must be satisfied:
- (a) Sufficient evidence must be available to prove the case.
 - (b) The offender must admit the offence.
 - (c) It must be in the public interest to use a Simple Caution.
 - (d) The offender must be 18 years or over.
- 7.6.4 We will also take into account whether the offender has received a simple caution within the last 2 years when determining whether a simple caution is appropriate for any subsequent offending.
- 7.6.5 If during the time the Simple Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes.
- 7.6.6 The refusal of an offender to be cautioned does not preclude the matter being passed for prosecution. In fact, any such failure will be a material consideration when deciding whether the offender should then be prosecuted for that offence.

7.7 Prosecution

- 7.7.1 The decision to prosecute is extremely significant and must be related to the risk, it must be for a disregard for the safety certification / law. The process prior to any decision to prosecute must be to check if another enforcement option is more suitable e.g. Prohibition Notice.

- 7.7.2 Prosecutions should be undertaken as soon as possible and only if the Council is satisfied that there is relevant, admissible, substantial and reliable evidence that the offence has been committed by the defendant and that there is a realistic prospect of conviction.
- 7.73 The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases.
- 7.7.4 The Code for Crown Prosecutors has two tests:
- Is there enough evidence against the defendant? When deciding whether there is enough evidence to prosecute, the City Council must consider what evidence can be used in court and whether it is reliable. The City Council must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each defendant.
 - Is it in the public interest for the City Council to bring the case to court?
- 7.7.5 A prosecution will usually take place unless the public interest factors against prosecution clearly outweigh those in favour of prosecution.

8.0 DECISIONS ON ENFORCEMENT ACTION

- 8.1 Decisions about the most appropriate enforcement action to be taken are based upon those matters set out in Section 7 above.
- 8.2 Where appropriate, decisions about what enforcement action to take may involve consultation between:
- Investigating Officer(s)
 - Head of Licensing
 - Council's Legal Team.
- 8.4 The decision to prosecute a case will be taken by those with authority to do so in accordance with the City Council's Scheme of Delegations.

9.0 LIAISON WITH OTHER REGULATORY BODIES AND ENFORCEMENT AGENCIES

- 9.1 The licensing service will where appropriate, co-operate and co-ordinate with any relevant regulatory body and/or enforcement agency to maximise the effectiveness of any enforcement.
- 9.2 Where an enforcement matter affects/involves a wide range of authorities, organisations and services they will be informed of the matter as soon as possible.

9.3 The City Council will share intelligence relating to enforcement matters with other regulatory bodies and enforcement agencies, including:

- Police
- Fire Authority
- Ambulance Authority
- Statutory Authorities (Building Standards etc.)
- Sports Grounds Safety Authority
- Other Council Services

10.0 CONSIDERING THE VIEWS OF THOSE AFFECTED BY OFFENCES

10.1 The City Council undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be taken into account when making enforcement decisions.

11.0 PROTECTION OF HUMAN RIGHTS

11.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

12.0 MONITORING AND REVIEW OF THIS POLICY

12.1 This policy will be monitored on a continual basis and will be formally reviewed annually. A copy of this policy is available at: www.sheffield.gov.uk