

ENFORCEMENT MATRIX

Regulatory

	Licensing Review	Directions relating to individual premises / events / public outdoor places	Prohibition Notice/Improvement Notice
Legislation	Licensing Act 2003	The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020	Health & Safety at Work etc. Act 1974
Purpose	To allow residents, interested parties or responsible authorities to review a premises where there are concerns that the licensing objectives are not being adhered to.	To allow local authorities to: <ul style="list-style-type: none"> Restrict access to, or close, individual premises Prohibit certain events (or types of event) from taking place Restrict access to, or close, public outdoor spaces (or types of outdoor public places) 	An Improvement Notice can be used to require a business to make COVID-19 secure improvements to achieve statutory compliance with health and safety legislation. A Prohibition Notice can be used to immediately prohibit a business activity where there is a risk of serious personal injury.
Applicants	<ul style="list-style-type: none"> Police London Fire Brigade LBH Public Health Residents or interested parties 	<ul style="list-style-type: none"> Local Authority 	<ul style="list-style-type: none"> An authorised and qualified Environmental Health Officer/Health and Safety Officer appointed by the Local Authority An HSE inspector
Test	That the premises are not adhering to the four licensing objectives. For COVID19 concerns about public safety or public nuisance may be relevant.	The following 3 conditions must be met: <ol style="list-style-type: none"> The direction responds to a serious and imminent threat to public health in the local authority's area The direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection The prohibitions, requirements or restrictions imposed are a proportionate means of achieving that purpose 	Non-compliance with relevant Health and Safety statutory requirements and in accordance with the enforcement policy, including evidence that informal and written warnings are not appropriate or have been used and found to be ineffective at achieving compliance. Additionally in the case of Prohibition Notices the existence of a serious risk of personal injury.
Details	<p>The Licensing review process requires a hearing following a 28-day consultation period.</p> <p>The Police can bring an expedited summary review which would require a hearing within 48 hours.</p> <p>The outcomes are varied. Ranging from no action, the removal or addition of conditions, suspension of licence, removal of the designated premises supervisor or revocation of licence.</p>	<ul style="list-style-type: none"> Must consult with DPH before issuing a direction Must be reviewed every 7 days Excludes 'essential infrastructure' (refer to exemption list) Have regard to ensuring the public have access to essential public services and goods 	<ul style="list-style-type: none"> An HSE Inspector/LA Authorised and qualified Environmental Health Officers/Health and Safety Officers can issue prohibition notices or improvement notices. A Prohibition Notice, unless successfully appealed, or a direction from an Industrial Tribunal is made to suspend it, remains in force until the business has completed works to achieve compliance with the notice's requirements and this has been confirmed by the officer. An Improvement Notice must specify a time period of not less than 21 days for works to achieve compliance with the notice's requirements to be completed. If an appeal is made in respect of an Improvement Notice then the Notice is suspended pending the outcome of the appeal.
Penalty on breach	N/A	Breach of a direction is a criminal offence. A fixed penalty notice may be issued. If paid within 28 days no proceedings may be taken in respect of the offence.	Breach of notice is a criminal offence. The courts have regard to the Sentencing Guidelines to determine the sentence on conviction. The maximum sentence possible on conviction is an unlimited fine and/or 2 years custodial.
Who can appeal	There are grounds to appeal the decision of the Licensing Sub Committee to the Magistrates Court.	The recipient of a direction has the right of appeal to the Magistrates Court, as soon as possible and where possible within the 7 day review period	The recipient has a right of appeal to an Industrial Tribunal within 21 days from the date of service for both Improvement and Prohibition Notices.
Lead LBH Officer	Keith Bush	Andy Watts	Marie Claire Irvine
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	Prohibition Notice	Fixed Penalty Notice (FPN)	Criminal Proceedings
Legislation	The Health Protection (Coronavirus, Restrictions) (England) (No. 2) Regulations 2020, Regulation 7(2)	<ul style="list-style-type: none"> The Health Protection (Coronavirus, Restrictions) (England) (No. 2) Regulations 2020, Regulation 9(1) The Health Protection (Obligations of Undertakings) Regulations 2020, Regulation 4(1) The Health Protection (Collection of Contact Details) Regulations 2020, Regulation 18(1) The Health Protection (Self-Isolation) Regulations 2020, Regulation 12(1) 	<ul style="list-style-type: none"> The Health Protection (Coronavirus, Restrictions) (England) (No. 2) Regulations 2020, Regulation 10 The Health Protection (Obligations of Undertakings) Regulations 2020, Regulation 5 The Health Protection (Collection of Contact Details) Regulations 2020, Regulation 19 The Health Protection (Self-Isolation) Regulations 2020, Regulation 13
Purpose	To prevent a person responsible for carrying on a business or providing a service from continuing to contravene Regulations 4(1), 4A(1), 4B(1), 4B(2)	To offer the individual who has committed the offence the opportunity to discharge liability to conviction. To assist in securing future compliance	To assist in securing future compliance
Applicants	<ul style="list-style-type: none"> Police Local authority 	<ul style="list-style-type: none"> Local authority Police 	<ul style="list-style-type: none"> Local authority
Test	Non-compliance with Regulations 4(1), 4A(1), 4B(1), 4B(2)	<ul style="list-style-type: none"> contravening regulation 4(1), 4A(1), 4B(1) or 4B(2) of the Coronavirus Restrictions Regulations obstructing a person carrying out a function under the Coronavirus Restrictions Regulations (Reg 8) contravening regulation 1A, 2(1), 2(1A), 2(1C), 2A or 2B of the Obligations of Undertakings Regulations contravening regulation 6, 7, 8, 11, 13, 14, or 16 of the Collection of Contact Details Regulations contravening regulation 7(1), 9(4) or 9(6) of the Self-Isolation Regulations 	<p>The local authority may instigate criminal proceedings in relation to certain offences under the regulations listed above for breaches of the obligations placed on businesses.</p> <p>The Coronavirus Restrictions Regulations and the Self-Isolation Regulations also set offences for obstruction.</p>
Details	<p>An authorised officer can serve a prohibition notice when a person responsible for carrying on a business or providing a service is in breach of:</p> <p>4(1) – nightclubs, dancehalls, discotheques, sexual entertainment venues, hostess bars must remain closed to the public</p> <p>4A(1)- restricted services must not be carried out between 22.00 and 05.00</p> <p>4B(1)- businesses serving alcohol for consumption on the premises must ensure customers remain seated to order and consume food and drink</p> <p>4B(2)- businesses not serving alcohol on the premises must ensure customers remain seated whilst consuming food and drink</p>	<ul style="list-style-type: none"> an authorised officer may issue a FPN notice in relation to the offences above an individual must be aged 18 or over in relation to regulation 4(1), 4A(1), 4B(1) or 4B(2) of the Coronavirus Restrictions Regs a FPN can only be issued to a person responsible for carrying on a business/ providing a service (owner, manager, proprietor). Cannot be issued on an employee who does not have control over decision-making in terms of obstruction under the Coronavirus Restrictions Regs an FPN could be issued to anyone aged 18 or over there is no offence for obstruction in the Obligations of Undertakings or Collection of Contact Details Regulations. At present a FPN could not be issued for obstruction under the Self-Isolation Regs 	<p>Offences for obstruction:</p> <ul style="list-style-type: none"> The Coronavirus Restrictions Regulations, regulation 8(2) The Self-Isolation Regulations, regulation 11(3) <p>There is no offence for obstruction in the Obligations of Undertakings Regulations or the Collection of Contact Details Regulations.</p> <p>The Coronavirus Restrictions Regulations set out an offence of failing to comply, without reasonable excuse, with a prohibition notice (see regulation 8(3))</p>
Penalty on breach	<p>Breach of a prohibition notice is a criminal offence and punishable on summary conviction by a fine.</p> <p>A fixed penalty notice may be issued for continued contravention of the prohibition notice or any of the other requirements under regulations 4, 4A, 4B, or 8(2) (obstruction).</p>	Failure to pay a FPN within the specified time period may mean criminal proceedings will be issued in the appropriate Court.	<p>The courts have regard to the Sentencing Guidelines to determine the sentence on conviction.</p> <p>The maximum sentence possible on conviction is an unlimited fine and/or 2 years custodial.</p>
Who can appeal	There are no statutory rights of appeal against a prohibition notice. If the recipient considers the notice should not have been issued/ is unreasonable they must put their complaint in writing to the LA which will then be reviewed.	There is no statutory right of appeal against an FPN. The recipient can make representation in writing to the local authority outlining the reasons for the challenge and it will be processed in line with the LA complaints procedure which will then be reviewed.	N/A
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Disorder

The Police and LBH Enforcement Officers will continue to address issues of crime and disorder in line with their standard operating procedures. This may include issuing a warning or a Fixed Penalty Notices for issues of noise, breach of the Romford Town Centre PSPO or littering.

If necessary and appropriate the powers detailed below may be used to address issues of disorder generated by a specific property or an area.

	Closure Notice	Dispersal Order	Obstruction of the Public Highway
Legislation	Sections 76 to 93 of the Anti-social Behaviour, Crime and Policing Act 2014	Section 35 of the Anti-social Behaviour, Crime and Policing Act 2014	<ul style="list-style-type: none"> Highways Act 1980 Section 130 Protection of Public Rights to the Amenity of the Highway 137 Obstruction of the Public Highway. 161 Danger or Annoyance to Users of the Street and Highway
Purpose	To allow the police or council to close premises quickly which are being used, or likely to be used, to commit nuisance or disorder.	Allows a police officer of at least the rank of Inspector to authorise a dispersal zone for up to 48 hours	Act provides a duty to prevent the obstruction and amenity of the public highway.
Applicants	<ul style="list-style-type: none"> Local Authority Police 	Police Only	<ul style="list-style-type: none"> Local Authority Police
Test	<p>The following has occurred, or will occur, if the closure power is not used:</p> <p>(a) Closure Notice (up to 48 hours):</p> <ul style="list-style-type: none"> Nuisance to the public; or Disorder near those premises. <p>(b) Closure Order (up to six months):</p> <ul style="list-style-type: none"> Disorderly, offensive or criminal behaviour; Serious nuisance to the public; or Disorder near the premises. 	<p>An officer may give such an authorisation only if satisfied on reasonable grounds that the use of those powers in the locality during that period may be necessary for the purpose of removing or reducing the likelihood of—</p> <ul style="list-style-type: none"> members of the public in the locality being harassed, alarmed or distressed, or the occurrence in the locality of crime or disorder. 	That the amenity of the public highway has been compromised and or obstructed to the annoyance or safety of the public.
Details	<ul style="list-style-type: none"> A Closure Notice is issued out of court in the first instance. Flowing from this the Closure Order can be applied for through the courts. Notice: can close premises for up to 48 hours out of court but cannot stop owner or those who habitually live there accessing the premises. Order: can close premises for up to six months and can restrict all access. Both the Notice and the Order can cover any land or any other place, whether enclosed or not including residential, business, non-business and licensed premises. 	<p>The power can only be used in a public place. A public place means anywhere the public have access, on payment or otherwise. For example, this could include a shop, public building, bus/train, or nightclub, but not, for example, someone's home or a private staircase within a block of flats.</p> <p>The person directed to leave must be told:</p> <ul style="list-style-type: none"> The area from which they are excluded The period of the exclusion (which cannot exceed 48 hours) Any other requirements, such as the time by which the person must have left the area, or the route by which the person must leave That failing to comply with the direction without reasonable excuse is an offence 	Discharged liability fines exist for the offences described which are not open for appeal mechanism. 14 days to pay fixed penalty to prevent the matter being reported for prosecution consideration. Criminal Offence if discharged liability fine is unpaid.
Penalty on breach	<p>Breach is a criminal offence.</p> <ul style="list-style-type: none"> Notice: Up to three months in prison. Order: Up to six months in prison. Both: Up to an unlimited fine for residential and non-residential premises. 	<p>A person given a direction under section 35 who fails without reasonable excuse to comply with it commits an offence.</p> <p>A person guilty of an offence under subsection is liable on summary conviction—</p> <ul style="list-style-type: none"> to imprisonment for a period not exceeding 3 months, or to a fine not exceeding £2,500 	£100 discounted to £50 if paid within 10 days
Who can appeal	<p>Any person who the Closure Notice was served on;</p> <ul style="list-style-type: none"> Any person who had not been served the Closure Notice but has an interest in the premises; The council (where Closure Order was not made and they issued the notice); The police (where Closure Order was not made and they issued the notice). 	Not applicable	No right of appeal for this discharged liability fine
Lead LBH Officer	Karen Proudfoot	Not applicable	Karen Proudfoot
Contact No.	01708 433096	Not applicable	01708 433096