

APPENDIX B



LICENSING ACT 2003

STATEMENT OF LICENSING POLICY 2022 - 2027

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1. INTRODUCTION

1.1 The Licensing Act 2003 (The Act) provides the framework for alcohol and entertainment licensing. It requires Licensing Authorities to publish a Statement of Licensing Policy to set out how licensable activities will be regulated. Burnley Borough Council (The Council), as Licensing Authority will undertake its licensing functions in accordance with the provisions of The Act, Regulations and Guidance issued by the Secretary of State under section 182 of The Act.

1.2 The policy sets out how the Licensing Authority will carry out those functions and make licensing decisions. Departures from this policy may be appropriate in exceptional situations depending on the individual circumstances of the case. The aim of this policy is to outline how the Licensing Authority intends to apply the licensing regime to promote a vibrant entertainment and cultural industry that boosts the local economy, whilst securing the safety and amenity of residential and business communities and enhancing community wellbeing.

1.3 The policy applies to the following licensable activities:

- Retail sales of alcohol
- Supply of alcohol by or on behalf of a club
- Provision of regulated entertainment
- Provision of late night refreshment (hot food and drink anytime between 11pm and 5am for consumption on or off the premises).

1.4 The licensing function is carried out with a view to promoting the four licensing objectives which are:-

- The prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

Each licensing objective has equal importance.

1.5 Licensing functions will be discharged with integrity and objectivity, and in accordance with the Equality Act 2010. As required, each application will be considered on its own individual merits. Unless representations are received an application must, and will, be granted in the terms sought, ie in accordance with the licensable activities applied for, the licensed hours applied for, the operating schedule and mandatory conditions.

1.6 The 2003 Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. It is recognised that the Act is not the primary mechanism for controlling nuisance of individuals once they are away from the premises, and beyond the control of the holder of a licence, club certificate or temporary event authorisation.

1.7 In accordance with section 5 of the 2003 Act the licensing authority has consulted with the following in respect of this policy:-

- The Chief Officer of Police
- Lancashire Fire & Rescue Service
- Lancashire County Council's Director of Public Health

- Representatives of holders of Club Premises Certificates
- Representatives of Premises Licence Holders
- Representatives of Personal Licence Holders
- Representatives of local businesses and residents

1.8 The Licensing Authority is committed to cooperative, partnership working with the trade, police, fire and rescue service, responsible authorities, Burnley Business Improvement District, local businesses, residents and others to promote the licensing objectives.

1.9 The policy takes effect on XXXXXXXX and will remain in force for a period of not more than five years. During this time the policy may be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

2. THE BOROUGH OF BURNLEY

2.1 Burnley BC is located in East Lancashire, and shares boundaries with Ribbles Valley, Hyndburn, Rossendale and Calderdale and Pendle councils. The Borough is a mix of rural and urban geography and has a resident population of circa 90,000. The population is predominantly centred in the main towns of Burnley and Padiham and smaller towns and villages of Hapton, Worsthorne, Briercliffe and Cliviger. It boasts a thriving manufacturing and aerospace sector and hosts a University Centre. There is an expanding retail sector and a vibrant night-time economy, which stakeholders recognise as an asset to the borough.

2.2 The licensed trade encompasses traditional wet-led pubs, food-led pubs, sports and social clubs, restaurants, off-licences, takeaways and an expanding wine bar/ale house sector. Nightclubs & late night vertical drinking premises are concentrated in one area of the town centre, attracting young people from across East Lancashire.

2.3 In Burnley work has recently started on the Pioneer Place project to create a new cinema and restaurant complex, and the Council has recently acquired the main Charter Walk Shopping Centre. An area of the town centre is also being regenerated as a Heritage Action Zone. Over-the-shop and commercial premises conversions are taking place to bring empty premises back into residential use to establish Burnley as a university town.

2.4 In Padiham substantial Public Realm works have been completed, and grant funding obtained for shop front restoration.

2.5 These developments alongside the Council's investment in CCTV and improvements to public spaces, together with current national 'levelling up' strategies, provide significant opportunities to enhance leisure activities in the Borough.

3. OUTLINE OF THE LICENSING PROCESS

3.1 Making an Application

3.1.1 The procedure and documentation requirements for making applications is prescribed by the 2003 Act, associated Regulations and statutory guidance. There are specific and detailed steps to follow, and it can be a complex framework to work within. This policy is not intended to interpret or explain the law in detail.

3.1.2 Applicants are encouraged to seek advice from the licensing authority via www.burnley.gov.uk and, where appropriate, the responsible authorities prior to submitting any formal application or notice. Comprehensive and detailed applications, submitted in a timely manner are encouraged and are less likely to be subject of representations, and so the use of a professional advisor is strongly advised for individuals who are not experienced in Licensing legislation.

3.1.3 Applications should be made on prescribed forms, and be submitted with all accompanying documentation, including confirmation that any advertisement requirements have been met, together with the appropriate fee. Incomplete applications will not be accepted. Where required copies should be served on Responsible Authorities.

3.1.4 Any revision of licensing activities, or people involved in the management of the business etc, are the responsibility of the holder of the licence/certificate, and it is expected that any such changes will be formally updated in a timely manner.

3.1.5 Operating schedules are an opportunity for the applicant to explain how the licensing objectives will be upheld at the premises. The operating schedule should be completed with careful consideration to the activities requested. The Licensing Authority recognises that licensed premises vary considerably in terms of what activities they provide, their size and location and therefore, there is no single set of measures that will be appropriate measures for inclusion on the operating schedule. Applicants should consider the particular sensitivities of people living or working in the vicinity. The application is less likely to be subject to representations where good advice has been sought and appropriate measures incorporated into the operating schedule.

3.1.6 Special considerations will apply to certain venues and industry guidance is available to specific sectors, and should be referenced for best practice.

3.1.7 Any substantial changes to the nature of a business operated from a premises, or any proposal to increase the licensable area by more than 50% should be sought via a new application rather than a variation.

3.2 Representations

3.2.1 There is a prescribed period during which the Licensing Authority can receive written representations in relation to an application. This time period varies depending on the type of application.

3.2.2 Representations can be received from a Responsible Authority or from any other person. Those received from Responsible Authorities will be afforded particular weight.

3.2.3 Responsible Authorities are defined at s13 of The Act. They are a prescribed list of public bodies with specific responsibility for crime & disorder, public safety, nuisance, public health and the protection of children from harm. Representations from any 'other person' must not be frivolous or vexatious.

3.2.4 The Licensing Authority can act as a Responsible Authority and make representations in respect of hearings, or apply for a review. When the Licensing Authority acts in this way there will be a clear division of responsibilities where officers and/or Members involved in procedural matters will be different from those officers/Members acting as the Responsible Authority. (Similar separation will occur where specific Council services are responsible authorities in their own right, eg Environmental Health & Planning services)

3.3 Decision Making Delegations

3.3.1 Licensing decisions are taken in accordance with the Council's scheme of delegation which is detailed at Appendix A.

3.3.2 The powers under the Act fall to the Licensing Committee comprising of 15 councillors. Powers are then delegated on to either the Licensing Sub-Committee (3 councillors) or to one or more officers. All Councillors serving on Licensing Committees receive comprehensive annual training.

3.4 Determination of Applications

3.4.1 If no relevant representations are received in respect of applications for club premises certificates, premises licences or variations then no further conditions can be attached. The licence will be granted as per the application with mandatory conditions and those consistent with the operating schedule. The Licensing Authority has no discretion to refuse the application or to alter the activities applied for.

3.4.2 Where relevant representations are made, objections raised, or an application to review the licence/certificate is submitted, the Licensing Authority must hold a hearing before the Licensing Sub-Committee who will take such action as is available to them under the Act. The steps available will depend on the nature of the application.

3.4.3 Conditions attached to the licence/certificate will avoid 'gold plating' existing legal requirements imposed via other acts of parliament or statutory instruments.

3.5 Reviews of Licences & Certificates

3.5.1 The procedure for reviewing premises licences and club premises certificates represents a key protection for the community where there is evidence to show that a specific concern exists relating to one or more of the licensing objectives.

3.5.2 The Licensing Authority expects responsible authorities and other persons to give early notice to licence holders of any concerns about problems identified at premises and of the need for improvement. It is expected that requests for a review of any licence or certificate will be sought only if such notice has failed to resolve the matter or problem.

3.5.3 Where a licence or certificate is reviewed, and the licensing objectives are found to have been undermined, consideration will be given to the full range of actions available to the Sub-Committee when determining the outcome.

3.6 Enforcement

3.6.1 Police and Local Authority Licensing Officers have responsibility for enforcement under The Act. The Licensing Authority will take a risk based approach to enforcement and act in a proportionate manner in accordance with the Regulators' Code.

3.6.2 The Licensing Authority monitors compliance with The Act through a range of inspection and audit activities. Contact is made with those premises where breaches are identified.

3.6.3 Where enforcement action relates to a situation where one or more of the licensing objectives is undermined, the Licensing Authority expects the relevant responsible authority or appropriate regulatory body to consider making an application to review the premises licence. See Appendix B.

4. MANAGEMENT CONTROL OF PREMISES

4.1 Designated Premises Supervisor

4.1.1 The Licensing Authority expects the Designated Premises Supervisor (DPS) to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The Licensing Authority expects that, in terms of a Premises which allows the supply of alcohol on the premises, this the DPS will be present for more than 50% of the opening hours in any 7- day week.

4.1.2 The premises licence holder is expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.

4.1.3 The DPS is also expected to appropriately manage anyone employed in the carrying out of licensed activity including door staff and distributors of promotional materials.

4.2 Children and Licensed Premises

4.2.1 The Council determines Lancashire Safeguarding Children Board to be the responsible authority in relation to the protection of children from harm.

4.2.2 Whilst the Licensing Authority wishes to see family-friendly premises thriving in the borough, it is of the opinion that the protection of children from harm in licensed premises is an important issue. Consequently, the risk of harm to children will be a paramount consideration when determining applications.

4.2.3 Applicants will be expected to include in their operating schedule a statement of the measures that they will take to protect children from harm (including employees under 18 years of age) which includes moral, psychological and physical harm as well as the protection of children from exposure to grooming, strong language, sexual expletives and gambling. This will include applications from late night food vendors. Once the applicant has undertaken assessments of any risk to children, they can volunteer appropriate conditions.

5. POLICIES SPECIFIC TO BURNLEY BC

5.1 Town Centre Diversification

5.1.1 The Licensing Authority recognises that regeneration work in Burnley and Padiham town centres, together with the acquisition of Charter Walk Shopping Centre present considerable opportunities to broaden the scope of licensed premises to encourage early evening dining and family friendly activities.

5.1.2 The Licensing authority wants to encourage responsible businesses to operate in the Borough. The Council is keen to encourage and support a more diverse mix of venues, events and visitor attractions which will be balanced against the potential for disturbance to town centre residents.

5.1.3 It is the Council's intention to work with relevant partners, including the Burnley Business Improvement District, to set out a shared vision for Burnley Town Centre.

5.2 Night-Time/Day-Time Conflict

5.2.1 The attention of the Licensing Authority has been drawn to problems which occur in the town centre in the window between the night-time economy closing and the day-time economy opening up. This can include issues with drunken and anti-social behaviour, criminal damage, littering, urinating and vomiting in the street, abuse of employees in the course of their work and disturbance to town centre residents. The Licensing Authority will work with partners and the trade to address these concerns. Where the activities of a licensed premises or club are subject to a review and found to be undermining licencing objectives at that time of day consideration will be given to reducing the hours of licensable activity, by way of an earlier closing time. Any new closing time will take account of the closing times of other premises in the vicinity so that staggered dispersal of customers is achieved.

5.3 Burnley Town Centre Highway Issues

5.3.1 The Licensing Authority is keen to ensure the safe use of vehicular and pedestrian routes particularly at night. Where venues are subject to a review and found to be undermining public safety by causing footpath obstructions that lead to pedestrians walking in the carriageway, consideration will be given to a suspension of the licence or certificate. Obstructions may arise from queuing, smoking areas or pavement cafes etc.

5.4 Temporary Event Notices (TENs)

5.4.1 The Act enables certain organised events to provide one or more licensable activities at unlicensed premises for less than 500 people to take place following notification to the Licensing Authority, the Police and Environmental Health via a TEN. Only the Police and Environmental Health can object.

5.4.2 The Licensing Authority recognises that one-off events provide valuable opportunities for communities to mix and celebrate together. Advice and assistance will be available to bona fide community events who do not have a commercial background or ready access to legal advice. This will include, those seeking TENs on behalf of charities, community and voluntary groups. The

Licensing Authority will ensure that local guidance about the temporary permitted activities is clear and understandable for such groups.

5.4.3 The use of multiple TENS for adjacent plots of land, or the artificial creation of a smaller TEN premises within the boundary of a larger event or festival for the purpose of utilising TENS for the sale of alcohol is considered outside of the scope and spirit of the Act. Premises Licences should be sought in these circumstances.

5.4.4 TENS for existing licensed premises will not be encouraged where the proposal is simply to extend the existing hours of operation. Applications of this kind will be subject to increased scrutiny because the TENS process does not transfer licence/certificate conditions over to the TEN for the additional hours, and in larger venues a TEN will impose a `cliff edge` reduction in capacity at the moment the activities move from the control of the licence/certificate to the TEN. Where extended licensing hours are desired, an application for variation of the premises licence is considered more appropriate than repeat TENS.

5.4.5 The previous history of an individual as a manager of licensable activities will be a relevant consideration in relation to objections and determination of TENS.

5.4.6 The Licensing Authority encourages early application for TENS well in advance of the event date. This is particularly relevant to events which are to take place in the open, or in/on temporary structures. This is so that if there are potential objections these can be subject of discussion, negotiation, and if possible mutual agreement. This allows for withdrawal and resubmission of a TEN in certain circumstances, thereby reducing the likelihood of the need for a Licensing Hearing or the issue of a Counter Notice. Assistance with the planning of events can be provided through the Council's Events Safety Advisory Group.

5.5 Events, including those held on Council land

5.5.1 The organiser of any large scale or high risk event, wherever it is held, will be expected to involve the Council's Event Safety Advisory Group (ESAG) at the earliest opportunity in the planning stage. All event organisers will need to demonstrate how they intend to safely deliver their event in line with the licensing objectives, relevant H&S guidance and Council policy. Such events will normally be carried out under a Premises Licence.

5.5.2 The Licensing Authority wishes to encourage cultural and community events in the borough. The Council holds premises licences for some of its areas of public land and town centres which are available to host such events with the prior agreement of the Council.

5.5.3 Persons or organisations wishing to host large commercial events on licensed public land should consult with the Council at an early stage in relation to the use of a Council Premises Licence. Large events will often be expected to obtain their own premises licence. The written permission of the Council is required, and all conditions attached to the agreements to use the premises must be complied with. The use of TENS to add alcohol sales will only be appropriate when the event will accommodate 499 people or less (including staff & performers etc).

5.6 Licensing Hours

5.6.1 Applicants are strongly encouraged only to apply for hours that they realistically intend to operate, as later hours are typically more likely to attract representations. Once granted a licence remains in force forever, unless surrendered, varied or reviewed, so responsible should give careful consideration to licensed hours at the application stage.

5.6.2 Where its discretion is engaged at a hearing, the licensing authority will give consideration to the appropriateness of hours applied for, having regard to any planning restrictions in relation to operating hours, the location of premises and their likely effect on the promotion of the four licensing objectives. While it is recognised that in some circumstances flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided, the licensing authority will consider restricting hours to ensure the promotion of the licensing objectives. Any new closing time will take account of the closing times of other premises in the vicinity so that staggered dispersal of customers is achieved.

5.6.3 The Licensing Authority considers that later hours will typically be more sensitive and higher risk in causing noise from regulated entertainment, anti-social behaviour from patrons in the vicinity of the premises, and crime and disorder from inebriated patrons. This will include late night food vendors. It therefore follows that additional measures may be required, including noise mitigation controls and an increasing number of SIA registered door supervisors may need to be employed the later the premises remains open, and these requirements may be considered as licence conditions.

5.6.4 It may also be appropriate, where later hours are requested for alcohol, to have a last entry condition as a condition of the Premises Licence to prevent vulnerable or intoxicated customers moving to the last venue open.

5.7 Dispersal Policy

5.7.1 The Licensing Authority encourages premises to adopt a dispersal policy where appropriate.

5.7.2 Where the activities of a licensed premises or club, including late night food vendors, are subject to a review and found to be undermining licensing objectives as a result of inadequate dispersal arrangements then consideration will be given to reducing the hours of licensable activity, by way of an earlier closing time. Any new closing time will take account of the closing times of other premises in the vicinity so that staggered dispersal of customers is achieved.

5.8 Welfare Provision

5.8.1 It is expected that premises licensed to sell alcohol for consumption on the premises, especially those trading beyond midnight, implement appropriate welfare measures. This may include the employment of designated welfare staff and trained first aiders, as well as steps to identify vulnerable person(s) and respond to accidents, injuries and other immediate harms such as unconsciousness, alcohol poisoning, drug intoxication, and any reported 'Spiking' incidents. Safety measures could include encouraging customers to ensure their drinks are not left unattended, and the use of publicity material to ensure customers remain vigilant. Overt CCTV is also a major deterrent for potential offenders.

5.8.2 Where spiking incidents occur inside premises or affect customers who either leave or are ejected, the necessary duty of care is exercised by the Premises Licence Holder / DPS and their staff, and that includes the immediate calling of appropriate medical aid and the notification of the police.

5.8.3 A zero-tolerance policy should be implemented regarding the use of illegal drugs and new psychoactive substances (NPS), (previously referred to as 'legal highs'), and nitrous oxide (NO) on the premises. Where there is a risk of illegal drug use on the premises, the authority expects a documented policy that sets out how drugs will be prevented from being brought into the premises, what action the venue will take should anyone be caught with drugs on the premises, and how the drugs will be disposed of.

Licensees should remain alert to emerging issues. The authority considers that nightclubs, in particular, address these risks, but it may also be appropriate for other licensed premises to do so. Relevant considerations could include: –

- The searching of customers and their bags etc on entry, this being a condition of entry
- A refusal/ejection policy for anyone found in possession of drugs, NPS, NO or similar intoxicants
- The use of toilet attendants / floor walkers and regular documented toilet checks –
- Searches of the premises – Training of staff in drug awareness to identify and prevent the supply and use of illegal drugs and new psychoactive substances
- Physical measures to deter drug use on the premises.
- Clear posters displayed and the overt use of CCTV, particularly in vulnerable areas.

5.9 Irresponsible Drinks Promotions

5.9.1 The Licensing Authority through this policy would like to encourage the responsible consumption of alcohol and where there is evidence at review that the licensing objectives are being compromised or are likely to be compromised, the Licensing Authority will consider imposing controls on drinks promotions to deal with localised problems. These controls could include:

- restricting the sale of super strength beer, lager and cider, or
- the requirement to charge a minimum cost per drink as part of a package of measures to deal with problems.
- Ensuring 'all you can drink' promotions and 'happy hour' promotions do not compromise any licensing objective

5.9.2 Rather than having to resort to controls of this kind, the Licensing Authority would like to encourage a voluntary code of good practice in relation to drinks promotions including pricing, and to encourage licence holders and others working at licensed premises to familiarise themselves with the mandatory condition relating to drinks promotions.

5.10 Planning Conditions Applicable to a Premises

5.10.1 The Licensing Authority is mindful that the licensing and planning regimes must be kept separate and determined in accordance with the respective legal and policy frameworks.

5.10.2 An application for a premises licence or club premises certificate, or a variation to either, will normally only be granted where the activity to be authorised by the application is a lawful planning use, as evidenced by a valid planning consent, and the hours sought do not exceed those authorised by that consent.

5.11 Public Spaces Protection Order (PSPO)

5.11.1 The Licensing Authority supports the use of PSPOs as a tool to prevent crime, disorder and anti-social behaviour. The Licensing Authority expects premises that operate in areas where PSPOs have been implemented to have measures in place to ensure their customers do not breach the PSPO requirements.

5.12 Cumulative Impact

5.12.1 Whilst open to representations from responsible authorities, the Licensing Authority believes that a town centre cumulative impact policy may work against its stated ambition to diversify the range of premises operating across the town centres. The delineation of a particular area, and imposition of restrictions in respect of new licences permitted within that area, may lead to premises instead setting up in more sensitive, residential areas, and deprive the town centre of new, alternative business models.

5.13 Early Morning Restriction Orders

5.13.1 EMROs are intended to address serious issues including high levels alcohol related crime and disorder, serious public nuisance and anti-social behaviour. They can apply to specific areas and impose a blanket restriction on the prohibition of the sale of alcohol within the area at specific times (between midnight and 6am). It is therefore a powerful tool that will severely impact businesses subjected to the restrictions, and should be considered as a last resort. The process involves gathering of evidence, advertisement and formal consultation followed by a hearing in relation to representations, prior to Full Council making an Order. The EMRO would be subject to regular review to ensure that that it can still be justified.

5.13.2 The Licensing Authority is open to representations from partners in relation to evidence. However levels of crime & disorder, public nuisance or anti-social behaviour are not known to be sufficiently serious in any particular area so as to warrant consideration of a blanket restriction on alcohol sales. As with cumulative impact policies there is a risk premises will relocate outside the area, and the further possibility that businesses may fail to the detriment of the broader night-time economy.

EXERCISE AND DELEGATION OF FUNCTIONS

The Authority will exercise and delegate functions in accordance with the following table.

Decision	Licensing Committee	Licensing Sub-Committee	Officer
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application for Provisional Statement		If relevant representation made	If no relevant representation made
Application to vary Premises Licence/ Club Premises Certificate		If relevant representation made	If no relevant representation made
Application to vary Designated premises supervisor		If a police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of a premises licence		If a police objection	All other cases
Application for interim Authority		If a police objection	All other cases
Deciding an application for Premises licence review is irrelevant, repetitious, vexatious or frivolous			All cases
Application to Review Premises licence / club premises Certificate unless all parties agree unnecessary		All Cases	
Decision to object when a local authority is a consultee and not the relevant licensing authority		All cases	

Decision	Licensing Committee	Licensing Sub-Committee	Officer
Determination of a police objection to a Temporary Event Notice		All cases	
Determination of a Minor Variation			All cases
Determination of a s20 Film Classification		All cases	
Licensing Authority to act as Responsible Authority			All cases
Disapplication of the s19 requirements to have a DPS in community premises			All cases

LA03 LICENSED PREMISES COMPLIANCE PROTOCOL

In order to effectively deal with issues arising at or from licensed premises, partner organisations and services will take a pro-active role where non-compliance or community protection issues occur that undermine the licensing objectives, which are:

- The prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

A summary of public sector partners is as follows:

Organisation	Service	Examples of issues that might arise	Available Sanctions		
			Community Protection	Criminal	LA03 Review
Police		Crime & Disorder / Breaches of LA03 inc Licence Conditions	X	X	X
BBC	Lic Team	Breaches of LA03 inc Licence Conditions	X	X	X
	EH	Noise from Regulated Entertainment Breaches of HASAWA	X	X	X
	Planning	Unlawful use Operating in breach of planning conditions	X	X	X
	ASB	ASB	X	X	X
	Comm Safety	PSPO	X	X	X
	Env Team	Littering/Street cleaning	X	X	X
	Econ & Growth	Reputational/Brand Damage Concerns from business community	X		X
LCC	TSO	Building Safety	X	X	X
		Counterfeit goods Underage sales	X	X	X

	Children's Services	Safeguarding Employment of Young Persons	X	X	X
	Public Health	Health & Wellbeing issues – including alcohol harms, mental health, obesity, determinants of ill health	X		X
LFRS		Fire Safety Risk assessments		X	X
UK Border Force		Right to Work Issues		X	X
Gambling Comm		Regulated gambling activities		X	X

Where a partner organisation receives reports of activity that undermines the licensing objectives arising at or from licensed premises the following graduated enforcement response is available to them.

