

Activity 9.0: Licensing and Enforcement

Accountable Manager: Anne Columbus

What services are provided?

- Animal Control
- Enforcement relating to legislative breaches including City plan and Bylaws
- Liquor licensing
- Health licensing
- Environmental compliance, including noise control and environmental health
 - Parking Enforcement & Administration
 - Licensing and enforcement public advice

Why do we provide these services?

To meet Council's statutory and regulatory obligations. Priority is given to protecting public health & safety, educating the community in regards to it's regulatory obligations and enforcing compliance where necessary.

What outcomes are we trying to achieve?	How do the services contribute to desired outcomes?
<p>➤ Risks from natural hazards, including earthquakes, flooding, tsunami and rock fall are minimised</p> <p>Injuries and risks to public health are minimised</p> <p>➤ Earthquake demolition waste is safely disposed of with minimal adverse effects</p> <p>➤ The transport system provides people with access to economic, social and cultural activities</p> <p>Statutory obligations are met by the Council</p>	<p><i>The Council helps to protect public health and safety and minimise risks by:</i></p> <ul style="list-style-type: none"> • Ensuring that dogs are registered and dogs and stock are adequately controlled; • Inspecting and licensing premises that sell liquor; • Registering and auditing premises that prepare and sell food; • Enforcing compliance with legislation relating to the fencing of swimming pools; • Monitoring and enforcing legislation and regulations relating to hazardous substance; • Monitoring and enforcement of Resource Management Act consents and temporary accommodation permits; • Investigating and enforcing Building Act legislation including dangerous works and dangerous buildings; • Responding to complaints about noise and other environmental nuisances; • Monitoring and enforcing legislation and regulations relating to sound levels. <p><i>Monitoring and enforcing resource consents, and investigating complaints about environmental nuisances, provides a mechanism for ensuring that earthquake demolition waste is being safely disposed of.</i></p> <p><i>Enforcing parking conditions means that there is a higher turnaround of vehicles using priced parking spaces, enabling a greater number and range of people able to visit retail and business areas and particularly the Central City.</i></p> <p><i>By providing licensing, inspection and enforcement services, the Council undertakes its statutory responsibilities and ensures community compliance with regulations regarding parking, fencing of swimming pools, the City Plan and Council bylaws .</i></p>

Which group or section of the community will benefit from this activity?:

Dog & stock owners, complainants to Council regarding regulatory matters, food sellers & manufacturers, Liquor proprietors, builders, home and property owners. The community as a whole.

Key legislation:

To meet the requirements of:
 Resource Management Act; Building Act; Health Act; Food Act (currently being revised); Food Hygiene Regulations; Fencing of Swimming Pools Act; Local Government Act 2002 and associated bylaws and Council policy; Sale of Liquor Act (currently being revised); Dog Control Act; Land Transport Act and Regulations

Customer

What business results must we deliver to our customers, to deliver on the outcomes?

Performance Standards for LTP

Performance Standards for LTP	Current performance	Benchmarks	Recommended LOS	Rationale	LTP Committee Direction
Animal Control					
9.0.1 Percent of priority 1 complaints (aggressive behaviour by dogs & wandering stock) responded to within 10 minutes.	95%	Hutt City Council Priority 1 calls must be "dealt with" within one hour (100%) Auckland City Council Priority 1 calls to dispatch an officer within 10 minutes of the call (100%)	95%	Key Business Driver: Aggressive Dogs are a high profile public safety issue that requires Council to have the capacity to respond in a timely manner to priority 1 complaints. Council provides a 24/7 service in order to respond to priority 1 complaints. "Aggressive behaviour" includes where a dog is presently in the act of biting, attacking or rushing at people. "Wandering stock" relates to cattle or sheep. "Responded to" means an initial assessment by the Animal Control Officer by attempting to speak with the complainant or victim, or when the Officer is currently in transit to the scene. Currently meeting previous LOS timeframes. Timeframes can be lowered to improve LOS. The previous P1 KPI required a response within two hours for rural and one hour for urban.	Accepted
9.0.2 Priority 1 dog complaints involving serious injury are referred to the Police within 5 mins of confirmation of serious injury 100% Annually re-inspect properties of dogs	100%		100%	In the event of serious injury our customers can be assured that Animal Control staff and Police will be in attendance for serious injury offence NOTE: Over the past three years the investigative and prosecutorial skill in the team have now evolved and Animal Control now take the lead and are regarded as the lead agency in relation to the investigation and prosecutorial processes relating to serious dog attacks.	Accepted

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Performance Standards for LTP

Performance Standards for LTP	Current performance	Benchmarks	Recommended LOS	Rationale	LTP Committee Direction
Animal Control (cont'd)					
9.0.14 Annually re-inspect properties of dogs classified as dangerous and high risk or menacing to check for compliance	NIL		95%	Ensures owners of dogs that are classified as dangerous or menacing continue to meet their legal obligations in accordance with Section 31 and 33 of the Dog Control Act 1996.	Accepted
9.0.15 Provision of animal control services, including the Animal Shelter			<p style="text-align: center;">9.0.15.1 Opening hours for Animal Control Weekdays 8.30am to 5pm (Weekends Closed)</p> <p style="text-align: center;">9.0.15.2 Opening hours for Animal Shelter Weekdays 1pm to 5.30pm Weekends Saturday only 11am to 1pm</p> <p style="text-align: center;">9.0.15.3 Free micro-chipping for dogs</p> <p style="text-align: center;">9.0.15.4 School dog education programmes provided for approx 20 schools per annum</p>	10 to 75 children attend per session. Sessions booked on request from school.	Accepted

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Enforcement relating to legislative breaches including City Plan and Bylaws					
9.0.3 Investigations into reports of matters that pose a serious risk to public safety are started within 24 hours (for matters such as dangerous buildings, non-consented dangerous works - buildings/ excavations)	100%	Investigative LOS across councils vary considerably No comparable LOS in Auckland City Council Wellington City Council requires urgent complaints to be investigated within 24 hours Marlborough District Council Environmental Health complaints within one working day (target 100%) Manukau City Council target of 90% for District RMA complaints to be investigated within seven days	100%	Key Business Driver: Key level of service should be to protect public safety in regard to buildings and dangerous earth works.	Accepted
9.0.6 Upon confirmation by Council staff of non-compliance, at least one written advice regarding corrective action (warnings) to be given for breaches of City Plan / RMA / Building Act & bylaw breaches within 30 days.	95%	No other Council has LOS relating specifically to enforcement education	95%	Key Business Driver: The focus of Council enforcement should be to obtain compliance through fair and, where appropriate, incremental enforcement approach. Education through providing advice and information should, in 95% of cases, be sufficient to achieve regulatory compliance. Prosecutorial or other court action should only occur where serious breaches occur and there are public interest factors justifying immediate prosecution. "Confirmation by Council staff of non-compliance:" allows for matters that can be resolved quickly/informally.	Accepted

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Enforcement relating to legislative breaches including City Plan and Bylaws (cont'd)					
<p>9.0.7 A minimum percentage of swimming pools and spa pools is inspected annually</p>	<p>Year to date: 22%</p>	<p>No comparable LOS in Auckland, Wellington or Tauranga Councils in current Annual Plan or Draft LTP 2012-22</p> <p>Marlborough District Council target >15% of all pools</p> <p>Manukau City Council 100% compliance by 2016</p>	<p>25%</p>	<p>With improved processes and efficiencies a target of inspection of 25% of all known pools is now achievable. This would equate to 1300/5200 pools.</p> <p>The statutory requirement for Councils is to take all reasonable steps to ensure compliance with the Fencing of Swimming Pools Act – there is no statutory requirement to carry out inspection of pools. However a Coroner recommendation was that to meet the “all reasonable steps” requirement Councils should have a swimming pool inspection regime.</p> <p>The KPI and LOS recommended allows for an annual inspection of a percentage of known pools whilst providing time for follow-up of compliances given 60% of pools are non-complaint on their first inspection.</p> <p>The service allows for an education focussed approach and targeted prosecution for those who ignore Council warnings/corrective action advice. Enforcement by way of prosecution is costly and provides little deterrence with a maximum fine of \$500 for a breach of the FOSP Act 1987.</p>	<p>Include spa pools in LOS description</p>
<p>9.0.16 All known earthquake waste demolition storage sites and clean fill sites inspected bi-monthly</p>	<p>Bi-monthly inspections of the 40-50 known demolition sites</p>	<p>Unique to Christchurch due to earthquakes</p>	<p>9.0.16.1 95%</p> <p>9.0.16.2 Report periodically to Regulatory and Planning Committee</p>	<p>New level of service. The equivalent of 40 years normal waste production will be generated by the earthquake-related demolition process. To monitor and manage this new work stream enforcement staff are supporting the Ecan/Christchurch City Council/Cera joint project regarding demolition waste, for three years.</p>	<p>Various items to report back:</p> <ol style="list-style-type: none"> 1. Frequency of reporting – discuss with Cllr Wells. 2. Discuss Arson risk issues outside LTP process with Cllr Johanson 3. Report back to committee on illegal rubbish tipping options.

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Enforcement relating to legislative breaches including City plan and Bylaws (cont'd)					
9.0.17 Monitoring Temporary Accommodation Permits - all permit holders inspected at least 12 months prior to expiry of permit	New		95%	Inspections required of the 400+ permit holders to ascertain the plans and preparation of the business to relocate to a permanent site or apply for a Resource Consent to remain in-situ. Two additional FTE are required starting 2013/14 to monitor the Temporary Accommodation Permits and take enforcement action where premises refuse to comply with the terms of the permit. (Cost estimated at \$150,000). To expire 2018.	Approved
9.0.9 Court proceedings taken by Council are fair and in the public interest	New	The Solicitor Generals Prosecution Guidelines require consideration of both evidential sufficiency and the public interest. Also confirmed by the Law Commission in it's review of Criminal Prosecution	100%	This performance standard is required to give assurance that the intervention of law by way of Court proceedings is both warranted and necessary. All matters considered for prosecution by the Inspections and Enforcement Manager will be assessed against public interest factors/criteria detailed in the Solicitor Generals Prosecution Guidelines.	Exclusion clause required

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Liquor Licensing					
<p>9.0.4 Inspect all high risk liquor premises (assessed using the Council's Liquor Licensing Team risk assessment methodology) at least twice per year</p>	95%	<p>LOS varies considerably across the country as highlighted in the 2007 Auditor General's Performance Report into Liquor Licensing by Territorial Authorities</p> <p>This Council's risk assessment methodology of high risk liquor premises is at the forefront of this type of risk assessment and no other examples of other territorial authorities using a risk based approach to inspections could be found.</p> <p>The new Act, Section 385 makes it clear that territorial authorities will be required to have have a risk based monitoring system if they are going to be able to set their own fees</p>	95%	<p>In the 2007 Auditor General's Performance Report into Liquor Licensing by territorial authorities it was recommended that inspectorate programmes should be based on a risk assessment of each premise. The performance standard and LOS recommended will bring the Council into line with that recommendation. The risk assessment methodology will be based on risk factors included in the audit report:</p> <ul style="list-style-type: none"> • Issues raised by Police, Public Health • Compliance history (e.g. intoxication, selling to minors) • Hours of operation/type of business • Level of disorder/crime associated with the premises 	Accepted

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Liquor Licensing (cont'd)					
<p>9.0.18 Report on all new On/Off/Club applications under the Sale and Supply of Alcohol Act within 28 working days of receipt of application with the District Licensing Committee (subject to all objections, oppositions and statutory reports having been received) LOS to be applied under Sale & Supply of Alcohol Act</p>	New		<p>Report on 95% of all new On/Off/Club applications under the Sale and Supply of Alcohol Act within 28 working days of receipt of application with the District Licensing Committee (subject to all objections, oppositions and statutory reports having been received)</p>	<p>Note: 95% for each as the number of licenses are in the 100s and LOS results rounded to whole numbers would mean one license not issued within timeframe would result in failure to meet target.</p> <p>Estimated timeframe for enactment of the Bill is around September 2012 with commencement 12 months following that. The true impact of the Bill in regards to resources and costs is unknown as regulations supporting the Bill are still to be developed. However, resources and proposed process for the equivalent of what is currently referred to as the District Licensing Agency will increase significantly as they are taking the role of the Liquor Licensing Authority.</p> <p>It is anticipated that at least two additional FTEs will be required post enactment. The Bill is intended to be fully user pays, however there will be a shortfall around revenue fees in the first three years as licences are renewed on a three yearly cycle. Therefore full cost recovery would not be achieved until year four after enactment of the Bill.</p>	<p>LOS confirmed under the Sale and Supply of Alcohol Bill</p> <p>Approved</p>

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Health Licensing					
9.0.5 Inspect food premises once per year	100%		Inspect 75% of all food premises once per year	<p>Change from 100% to 75% is driven by the need for a risk-based inspection approach instead of a inspectorate model. Previous KPI drove quantity outcomes rather than quality outcomes. This new level of service coupled with the risk-based KPI above will better provide for quality inspections and safe food. 100% is also not achievable in relation to mobile food premises. Due to the mobility of these food premises, some simply cannot be located at times for inspection.</p> <p>The new Food Bill also supports a risk-based inspection/audit approach.</p> <p>"Inspect" means an inspection or an audit of a Food Control Plan/National Programme.</p> <p>In the 2009-19 LTP two additional FTEs were approved in anticipation of the Food Bill. Once enacted (estimated to be sometime after the commencement of the 2013 calendar year), these FTEs will be required at a cost of \$162,000. Fees will need to increase assuming the policy is still 100% user pays.</p>	Accepted
9.0.19 Identified non-compliant food premises to be Re-inspected twice within six months	New		100%	<p>Re-inspection means the initial follow up visit following detection of non-compliance and one further routine inspection within a six month timeframe.</p> <p>NOTE: there is no statutory number of inspections required other than "regular" inspections.</p>	Accepted

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Environmental Compliance, including noise control					
9.0.8 Complaints in relation to noise are responded to within one hour	100%	Manukau City Council 100% within one hour Auckland City Council 80% of noise complaints responded to within 30 minutes of first report Wellington City Council 90% of noise control complaints are investigated within one hour	9.0.8.1 90%	24/7 service provided. Business hours complaints are attended to by Council staff with afterhours services provided through Amourguard/ADT. The contract cost of providing the afterhours service is \$490,000 per annum. Noise complaint numbers have increased every year since 2007/08. There has been a 37% increase in complaint numbers since that time, with a 6% increase in 2011/12 compared with 2010/11. Due to increasing noise complaint numbers and attendance delays caused by earthquake-related roading/ infrastructure problems, along with increasing complaints requiring attention in the Western suburbs impacting on across town travel, a 90% LOS is recommended. Does not cover vehicles on a road/ boy racer issues. "Responded to" means attendance at the scene of the complaint within 60 minutes of the complaint being received.	Accepted Response: New target in regards to resolving 100% of noise complaints has been considered. However it is difficult to quantify a timeframe for responding to all complaints, due to attendance to rural areas and additional travel time in urban location due to roading repairs etc. Average noise complaint response time is approx 30 mins per event.
9.0.20 Noise direction notices issued immediately upon first visit and confirmation of "excessiveness"	NIL	No comparable benchmarks available	95% <i>(ensure that notices are issued to the person in control of the sound)</i>	To ensure immediate action (e.g. seizure of stereo equipment) can be taken upon a subsequent excessive noise event within a 72 hour period of the noise direction notice being served. NOTE: 95% LOS is to cover the judgement element of going from "unreasonable" to "excessive". Inclusion of this measure highlights a strategic change in focus towards providing an outcome based focus to noise complaints, thus curbing excessive noise behaviours.	Accepted Note adopted

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Environmental Compliance, including noise control (cont'd)					
9.0.21 Investigations into reports of matters that pose a serious risk to public health are started within 24 hours (for matters such as Asbestos, P- Labs, contaminated land and Hazardous Substances and New Organisms - HSNO)	100%	Wellington City Council has 100% all urgent HSNO events to be attended within one hour	100%	"Public health" issues include Asbestos, P Labs, HSNO, events and contaminated land issues.	Accepted

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Parking Enforcement & Administration					
9.0.11 Percentage of Parking Court Defended Hearings proved	80%	<p>No other Councils have performance standards relating to Court proceedings. UK Crown Prosecution Service – 86% of cases prosecuted result in conviction. New Zealand Police approximately 80%</p> <p>Auckland City Council has no parking enforcement related LOS</p> <p>Wellington (NEW) and Dunedin City Councils have a LOS that relates to residents perception (%) that parking enforcement is fair</p>	80%	To provide a tangible measure that the matters taken through the Court process have been assessed from an evidential perspective and a proper public interest analysis has been undertaken. This in turn provides evidence that parking laws are being applied fairly and equitably.	Manager to discuss WOF charges with Cllr Keown

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Parking Enforcement & Administration (cont'd)					
9.0.12 Parking enforcement services provided	Weekdays: Monday to Friday (7am to 6.30pm) Weekends: (8am to 4pm) excluding public holidays	Only one Council (Auckland) is known to provide 24/7 parking enforcement	Weekdays: Monday to Friday (7am to 6.30pm) and Weekends: (8am to 4pm) excluding public holidays	There have been occasional calls for 24/7 parking enforcement primarily to deal with taxi stand offences and blocked vehicle entrance issues. The LOS proposed is consistent with the Council's employment contract provisions. In addition a 24/7 service would encroach on service traditionally provided by Police and would transfer the cost of that service to the ratepayer.	Accepted
9.0.13 Parking Enforcement Officers average response time to requests for service	City: 95% response within 15 minutes Suburbs: 95% response within 20 minutes	No other Council response time LOS exist	9.0.13.1 City: Respond to 95% of requests for service within 15 minutes 9.0.13.2 Suburbs: Respond to 95% of requests for service within 20 minutes	Blocked driveway complaints, which form a significant number of city complaints require a timely response. The additional five minutes for attending suburban complaints is as a result of the additional time required for staff to travel to the suburb to attend to the complaint.	Accepted

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Licensing and enforcement public advice					
9.0.22 Provide public advice service to support licensing and enforcement customers	Counter service at Civic Offices between the hours of 8.30am to 5pm, Monday to Friday (excluding public holidays)		Counter service at Civic Offices between the hours of 8.30am to 5pm, Monday to Friday (excluding public holidays)	This service covers general counter enquiries regarding the licensing and enforcement services and the provision of related brochures.	Accepted