



# **ROTORUA DISTRICT COUNCIL**

## **DISTRICT LICENSING AGENCY**

## **SALE OF LIQUOR POLICY**

ADOPTED BY COUNCIL ON 18 JUNE 2002

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## **ROTORUA DISTRICT LICENSING AGENCY**

### **SALE OF LIQUOR POLICY**

#### **1. Introduction**

The object of the Sale of Liquor Act includes the statement “to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse, so far as that can be achieved by legislative means...” The object of the Act further requires that every District Licensing Agency “... shall exercise its jurisdiction, powers, and discretions under the Act in the manner that is most likely to promote the object of this Act.”

The District Licensing Agency therefore has a role to play in the reduction of liquor abuse through its responsibilities and obligations under the Sale of Liquor Act. The Council believes that the key to achieving the aims of the Act is in the promotion of responsible attitudes of both Licensees and the public, in achieving a mature approach to liquor consumption.

The District Licensing Agency carries out its role in conjunction with the other statutory agencies pursuant to the Act, who are the Rotorua Police and the Medical Officer of Health for the Bay of Plenty.

#### **2. Object and content of the policy**

The purpose of the Sale of Liquor Policy is to clearly define the Council’s attitude to, and administration of, its responsibilities pursuant to the Act. The policy defines the parameters which guide liquor licensing within the city and specify how the District Licensing Agency will carry out its statutory functions. The policy contains guidelines in respect of the hours of operation of licensed premises, criteria for the reporting on, and approval of, licence applications and renewals, enforcement procedures, communication between the various sectors and strategies aiming to reduce liquor abuse.

#### **3. A “Proactive “ Approach to Liquor Licensing**

The Rotorua District Licensing Agency, along with other regulatory agencies, carries out a proactive approach to liquor licensing which includes working with the industry and carrying out promotional activities and strategies encouraging compliance with the legislation and the creation of safe drinking environments. The Agency believes this approach reduces the need for enforcement action at a later date and is more cost effective.

The Rotorua District Council will co-ordinate an active Liquor Liaison Committee in pursuit of a proactive approach.

The projects and strategies carried out by the agencies target the industry, general public and identified groups.

#### **4. The Public Role in the Licensing Process**

The District Licensing Agency and its regulatory partners will encourage public input to the licensing process. Efforts have been made over a number of years to make the general public more aware of the role of the District Licensing Agency (ie. the Council), in the licensing process.

The District Licensing Agency will continue with efforts to ensure the general public is aware of its role and functions.

**Policy:**

***The Rotorua District Licensing Agency will continue to encourage public participation and consultation in liquor issues generally, with a particular emphasis on:***

- *Awareness of the District Licensing Agency and its role; and*
- *Awareness of the Licensees responsibility in ensuring a responsible approach to liquor consumption; and*
- *Awareness of a procedure by which the public can make complaints about Licensed premises.*

**5. Alcohol Health Promotion and Communication**

The District Licensing Agency recognises that alcohol is part of the New Zealand social fabric and that the general public and the individual have a responsibility in respect of maintaining a healthy attitude to alcohol consumption. The Sale of Liquor Act provides a legislative basis. However, initiatives from statutory agencies, stakeholder groups such as ALAC, and the industry (groups such as HANZ, SCANZ etc.) also encourage a healthy public and industry attitude to alcohol and the reduction of liquor abuse.

The District Licensing Agency, in collaboration with its regulatory partners, the Rotorua Police and the Medical Officer of Health, as well as non-Regulatory partners, will continue to encourage the utilisation of legislative, as well as non-legislative, measures to control the sale and supply of liquor.

Strategies will be focussed at specific groups that are appropriate from time to time, including:

**5.1 Youth as a primary focus, with parents and other adults as a secondary focus**

Strategies will encourage moderation and responsibility with alcohol, as well as affirming those who choose not to drink. Strategies will also be focussed on the secondary audience of parents, caregivers, and other adults, by emphasising responsibility in respect of the supply of *alcohol (and the impact of adult role models)* to minors.

**5.2 The General Public**

Strategies will also emphasise moderation, responsibility and respecting other people and their rights. The general public need to be aware of the requirements of the Sale of Liquor Act.

**5.3 Licensees and their staff**

Strategies promoting awareness of Licensee and staff responsibilities under the Act will continue. Strategies include the provision of information and advice in respect of Licensees and licensed premises staff awareness of, and compliance with, the legislative requirements and the spirit of the Act.

**5.4 Staff of District Licensing Agency and other agencies or organisations involved in the licensing process**

In order to carry out their functions and responsibilities in accordance with the Act, it is essential for staff of the District Licensing Agency and other organisations to be aware of, and up to date with, the requirements of the Sale of Liquor Act, along with other relevant legislation or regulations.

## 5.5 Communication

Communication is a key tool in the local licensing process, so it is essential that all parties involved communicate regularly, and are working towards similar common goals within the bounds of their own legislative or association requirements and purposes. The District Licensing Agency will continue to work with its partners defined by legislation, as well as working in a close and co-operative manner with Licensees and other relevant bodies and groups, including ALAC, National Police Headquarters, HANZ and SCANZ etc.

### *Policy:*

*The Rotorua District Licensing Agency will maintain a continuing public awareness and communication role, targeting the abovementioned groups, with a view to increasing public awareness of the need for moderation in alcohol consumption and compliance with legislative requirements.*

## 6. Host Responsibility

Host Responsibility is a statutory requirement of the Act. The principles of host responsibility include the promotion and availability of low and non-alcohol drink and food, serving alcohol with care and responsibility, responsible approaches to dealing with intoxicated and underage people, and information about safe transport options. Licensees will be encouraged to have a selection of low alcohol beverages. The Liquor Licensing Authority or District Licensing Agency can impose other conditions it considers appropriate to promote the responsible consumption of liquor. The Rotorua District Licensing Agency will require a written Host Responsibility Policy Statement detailing the premises approaches to the above matters in respect of all licence and renewal applications and will encourage the Licensee to display that Host Responsibility Statement. In that regard, the Medical Officer of Health is able to supply information on Host Responsibility.

### *Policy:*

- *All licensed premises are required to have a written operative Host Responsibility policy, which is to be observed at all times.*
- *A copy of the premises current Host Responsibility policy must be submitted to the District Licensing Agency with all On, Off and Club licences and Renewal applications.*

## 7. Alcohol Promotions

Pursuant to the Act, a Licensee or Manager of a premises commits an offence if they do anything in the promotion of the business conducted on the premises or in the promotion of any event or activity held or conducted on the premises that is likely to encourage persons on the premises to consume alcohol to an extent contrary to the spirit of the Act.

A "National Protocol on Alcohol Promotions" has been distributed to all regulatory agencies and Licensees, to assist in providing some nationally consistent guidelines. These guidelines have been prepared by national industry and statutory agencies with input from all relevant groups.

### *Policy:*

- *The regulatory agencies in Rotorua endorse the national protocol and request all Licensees carry out promotions or activities in accordance with the protocol.*
- *Where the agencies consider that an activity or promotion infringes the Act, the enforcement procedures as detailed in section 17.2 of the Policy will apply.*

## **8. Evidence of Age Documents**

Recognised evidence of age documents pursuant to the Act, are a Passport, NZ photo driver's licence and a HANZ 18+ card. Any other form of photo ID may not be a reasonable defence pursuant to the Act. The regulatory agencies strongly recommend that all premises accept only a Passport, NZ photo driver's licence or HANZ 18+ card for age verification.

### ***Policy:***

*As a matter of Policy, the Rotorua District Licensing Agency has an expectation of all Licensees that those Licensees will ensure that when there is any doubt as to a client being of legal age, evidence of age documentation will be provided prior to entry to the premises being allowed.*

## **9. The Licensing Process**

### **Functions of the District Licensing Agency (DLA) and the Liquor Licensing Authority (LLA)**

Pursuant to the Act, the functions of the District Licensing Agency (Council) and the Liquor Licensing Authority are as follows:

#### **9.1 Functions of the District Licensing Agency include:**

- Determining all new and renewal, unopposed applications for On, Off and Club licences, and new and Renewal Manager's certificates.
- Determining Temporary Authority applications (On /Off licences).
- Varying conditions of On, Off and Club licences (if conditions imposed by DLA).
- Determining caterers & auctioneers Off licence applications.
- Determining applications for Special licences.
- Appointing one or more Licensing Inspectors.

#### **9.2 Functions of the Licensing Inspector include:**

- Reporting on all applications for Licences and Managers Certificates and Renewals to the DLA or LLA.
- Monitoring licensed premises compliance within the requirements of the Act and reporting to the DLA or LLA.
- Power of entry to any licensed premise at any reasonable time (the Inspector must carry a Warrant of Appointment).
- Ability to require to see the premises Licence or any records reasonably required to establish compliance with the Act.
- Ability to apply to the Licensing Authority for the variation, suspension or cancellation of a Licence.

#### **9.3 Functions of the Liquor Licensing Authority include:**

- Determining opposed applications for On, Off and Club licences and Renewals, and Managers Certificates referred to it by District Licensing Agencies (DLAs).
- Determining appeals arising from decisions of DLAs.
- Giving direction on sale of liquor matters to DLAs.
- Determining applications for variation, suspension or cancellation of On, Off or Club licences and Managers Certificates from the Police or a Licensing Inspector.

- Considering the suspension or cancellation of licences in respect of certain offences (relating to the sale and supply of liquor to minors, unauthorised sale or supply, sale or supply to intoxicated persons, or allowing persons to become intoxicated) referred to them by the Police.

#### **9.4 The Licensing Process of the District Licensing Agency**

Full details on the application process and information required with licence applications is available from the District Licensing Agency at the Rotorua District Council. This information includes the specific details to be supplied with a licence application and explains the issues that a licence applicant must address. Applicants should be familiar with the Sale of Liquor Act and the information that is available.

The District Licensing Agency is responsible for the functions detailed above. This section of the policy details how the District Licensing Agency will carry out those functions in a transparent and accountable manner. Where appropriate, some powers and duties of the District Licensing Agency have been delegated to staff in accordance with section 104 of the Act.

#### **9.5 The Political Function**

The District Licensing Agency will operate in accordance with this Policy as adopted by the Rotorua District Council. The District Licensing Agency Sub-Committee will meet on an as required basis and is delegated to consider unopposed Special Licences and Temporary Authority applications, new and renewal On, Off and Club licence applications and new and renewal Manager's Certificates.

#### **9.6 The District Licensing Agency Function and Structure**

The District Licensing Agency activities are carried out within the Environmental Services Department. There is a distinct separation of the inspectorial and administrative roles, with regular communication between the staff responsible for the particular activities.

#### **9.7 The Administrative Role**

The administrative role is the responsibility of the Manager, Administration, Environmental Services, and includes receiving all liquor licence and certificate applications, ensuring every part of the application is checked for completeness and accuracy, and referring applications to the Licensing Inspector, Police, and Medical Officer of Health for consideration. All reports and any objections raised are collated and checked to ensure that all aspects of the reporting and application process have been followed. Incomplete applications will not be accepted.

#### **9.8 The Inspectorial Role**

The Inspectorial role is the responsibility of an Inspector who is warranted pursuant to the Sale of Liquor Act 1989. Inspectors report on all applications for Licences, Manager's Certificates and Renewals. The Inspector is also responsible for the monitoring and enforcement requirements of the legislation in conjunction with the other statutory agencies under the guidance of The Manager, Regulatory Services.

#### **9.9 The DLA Secretarial Role**

The Director, Environmental Services is the Secretary of the District Licensing Agency. The duties of the Secretary are carried out under delegated authority by the District Licensing Agency. All complete applications are forwarded to the Licensing Inspector and checked for compliance with the legislation and Council Policy. If there are no objections or matters in

opposition and the application complies with the legislation and the Policy, the licence is determined by the DLA Subcommittee in accordance with the delegated authority. If the application does not comply with the Policy, it is referred to the DLA Committee for consideration. Administration is responsible for the co-ordination of the licensing activities, and to ensure that relevant applications are submitted to the DLA Committee or the Liquor Licensing Authority where appropriate.

All opposed applications (ie where an objection has been lodged by a member of the public) and applications to which the Licensing Inspector, Police or Medical Officer of Health have raised a matter in opposition, are referred to the Liquor Licensing Authority.

## **10. Process for Objection**

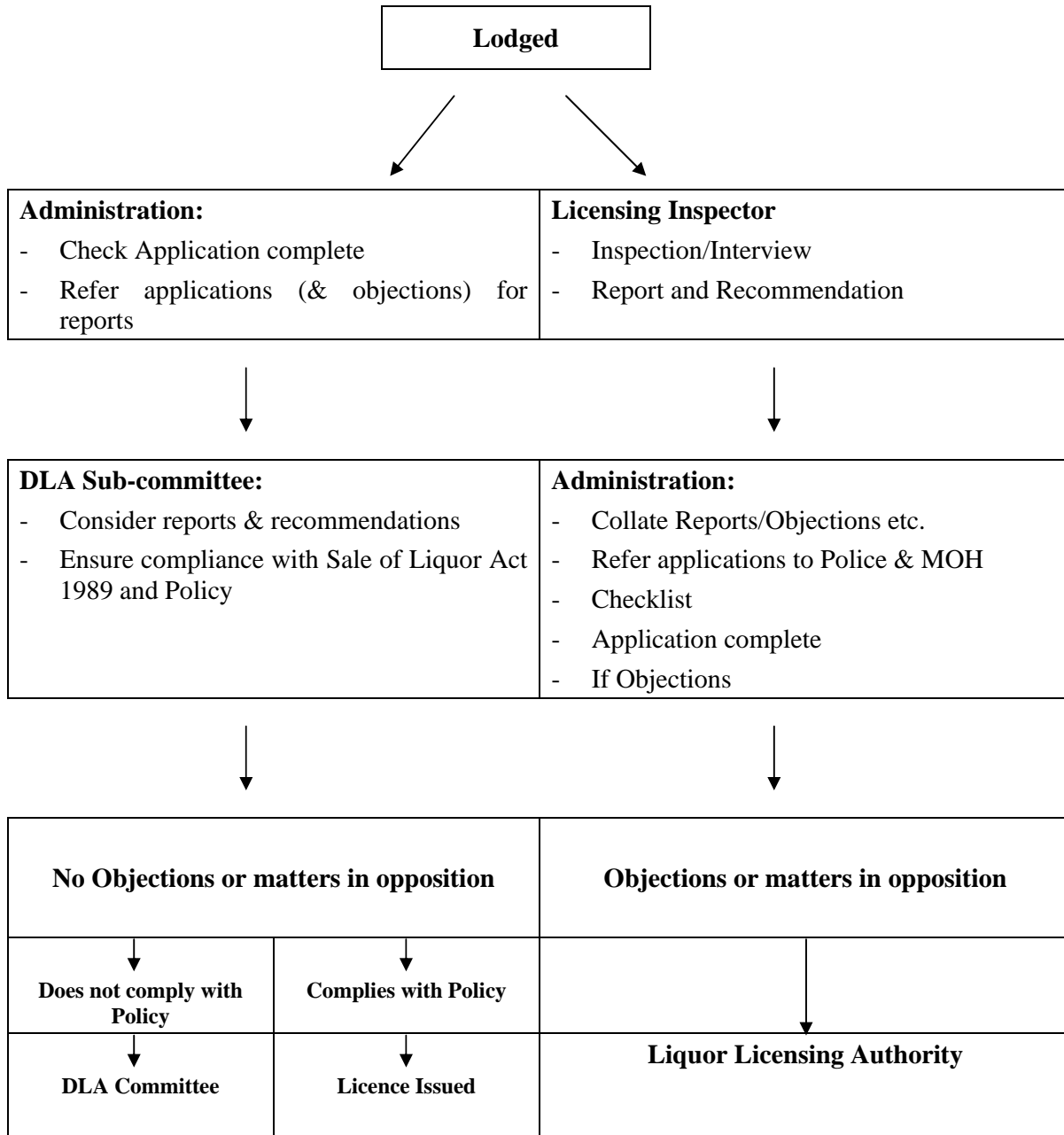
As a matter of Policy, following the closing date for receipt of objections, copies will be sent to the applicant [as provided for by section 19(4) of the Sale of Liquor Act 1989].

### **10.1 District Licensing Agency Roles in the Licensing Process**

<p><b><u>Council</u></b></p> <ul style="list-style-type: none"> <li>- Set the DLA policy and delegations – and oversee the licensing process</li> </ul>	<p><b><u>Secretary DLA</u></b> <b><u>(Director, Environmental Services)</u></b></p> <ul style="list-style-type: none"> <li>- Responsible for administration of and compliance with Sale of Liquor Policy</li> <li>- Delegated authority to issue licences that comply with legislation, LLA guidelines and the DLA policy</li> <li>- Applications referred to DLA Sub-committee or to Liquor Licensing Authority</li> <li>- Objections/Matters in opposition – referred to Liquor Licensing Authority</li> </ul>	
<p><b><u>DLA Committee</u></b></p> <ul style="list-style-type: none"> <li>- Conducts Hearings as required, to deal with opposed Special or Temporary Authority applications.</li> </ul>		
<p><b><u>DLA Sub-committee</u></b></p> <p>Meets weekly (or more frequently if required), to consider unopposed applications for New or Renewal of On, Off, Club Licences, Special Licences and Managers Certificates.</p>		
<p><b><u>Administration Manager</u></b></p> <ul style="list-style-type: none"> <li>- Receive applications</li> <li>- Check for completeness and supporting documentation</li> <li>- Obtain reports from Inspector and Agencies</li> <li>- Assemble Agenda for meetings of DLA Sub-committee</li> <li>- Prepare appropriate documentation following decision of DLA or Sub-committee thereof</li> <li>- Arrange signature by Delegated Officer</li> <li>- Despatch to relevant parties</li> </ul>	<p><b><u>Licensing Inspector</u></b></p> <ul style="list-style-type: none"> <li>- Responsibility of Manager, Regulatory Services</li> <li>- General Inspectors warranted as Licensing Inspectors</li> <li>- Inspection and interview in respect of all Licence applications and Managers Certificates</li> <li>- Report on all applications and make recommendations</li> <li>- Appear before DLA Committee and LLA as required</li> <li>- Enforcement Issues – Monitoring and compliance</li> </ul>	

**10.2 Flow Chart - The DLA Role in the Licence Application Process**

This flow chart illustrates the various stages of a liquor licence application:



**11. On Licence Criteria**

**11.1 Hours of Operation**

The hours of operation are set by the Liquor Licensing Authority or District Licensing Agency after consideration of the reports from the Licensing Inspector, Police, Medical Officer of Health, and any objections. An application for an On-licence must comply with the Resource Management Act before it is lodged, however, sometimes additional restrictions in respect of hours of operation are required. This usually relates to the proximity of a licensed premises to a residential area and the nuisance potential which may arise from activities related to the premises. In such instances, restrictions may be imposed. Factors in this may be public concern (ie objections) or concern from officers (ie Police, Licensing Inspector etc).

**Policy:**

*The Rotorua District Licensing Agency Sub-Committee will consider each application on its merits, taking into consideration any issues raised by the reports submitted by the Licensing Inspector, Police, or Medical Officer of Health, as well as:*

- (a) the proximity of the licensed premises to residential areas that are occupied predominantly by residential dwellings and/or tourist accommodation activities; and*
- (b) compliance with the District Plan noise levels.*

*In general, 3 am is an acceptable closing hour, however, an earlier closing time of 1 am may be applicable for on-licensed premises, in or adjacent to residential areas as defined above, only where it is considered that adverse environmental effects may result on that residential area/zone.*

**11.2 Notice of Application:**

As a matter of Policy, in reliance on the provisions of Section 9(6) of the Act, the District Licensing Agency will not require the attachment of a Notice of Application on the subject site, but reserves the right to invoke the provisions of Section 9(5) and insist on the placement of such a Notice where, in the opinion of the Agency, the provision of such a Notice is necessary.

**11.3 Reporting Criteria for Licensing Inspector**

The Licensing Inspector's report in respect of an On licence application will take into account the following:

- The nature of the operation
- The suitability of the applicant
- The hours of operation and the proposed activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- The applicant's Host Responsibility Policy (includes food, non alcoholic/low alcohol drink and transport)
- The persons or types of person to whom liquor may be sold pursuant to the licence
- Any other matters in respect of the application promoting the responsible consumption of liquor
- The need to recommend whether or not the licence should be granted and any special conditions/circumstances.

**Note:**

The Licensing Inspector will have copies of any objections or matters raised in opposition by the Police or Medical Officer of Health before making a recommendation to the District Licensing Agency or the Liquor Licensing Authority.

Should the Police or the Medical Officer of Health not file a report within the 15 working days allowed under the new legislation, the Administration Manager will advise the Inspector (after 20 working days) that no such report has been received.

**11.4 On Licence Renewals**

All On licences are required to be renewed after an initial 12 month period and then every three years thereafter. It is, however, the responsibility of the Licensee to ensure that the Renewal application is lodged on time.

## 11.5 On Licence Renewal Criteria

The criteria under which the District Licensing Agency will consider an application for renewal of an On licence includes all relevant matters raised by the Police, Medical Officer of Health or in the Licensing Inspector's report.

Matters considered will include, but not be restricted to, the following:

- Any relevant information from any source
- Evidence of the sale or supply of liquor to minors, intoxication, behavioural problems, motor vehicle accidents, violence or any other anti-social acts or consequences in which the management of the premises is a factor.
- The adequacy and implementation of the premise's Host Responsibility Policy
- Any adverse environmental impact
- Any objections/concerns lodged through the public process or raised by any effected parties.
- The approach of the Management of the premises to the Act and its requirements, and
- Promotion of the premises, control of liquor abuse, and whether the Management philosophy is in keeping with the spirit of the Act.

In undertaking the review of each premises, the District Licensing Agency Sub-Committee and/or its Inspector, may take into account the following:

- Information obtained from any public complaint relating to the premises directly or indirectly
- Information obtained from the Police, Medical Officer of Health, Fire Service or any other body considered appropriate by the Inspector or District Licensing Agency
- Information obtained from any independent study or monitoring commissioned by or undertaken on behalf of the District Licensing Agency
- Any other information/source that the District Licensing Agency deems appropriate.
- The suitability of the premises and effects of any variation to the conditions sought by the applicant
- In addition to the above criteria, the Licensing Inspector may also take into account the required reporting criteria for On licence applications

## 12. Off Licence Criteria

12.1 The District Licensing Agency notes that there is a difference between "Stand Alone" Off licences (ie a retail liquor shop) and those associated with a hotel or tavern. While the Resource Management Act will ultimately determine whether an application for a stand alone Off licence in or adjacent to a residential area may be lodged, it is possible that the District Licensing Agency may require more restricted hours than those contained in this Policy.

### ***Policy:***

***The Rotorua District Licensing Agency will consider each application on its merits, taking into consideration any issues raised by the reports submitted by the Licensing Inspector, Police, or Medical Officer of Health. However, in general, an 11 pm closing hour for all Off-licensed premises is considered acceptable where there are potential or actual adverse effects on any residential area that is occupied predominantly by residential dwellings and/or tourist accommodation activities, from the operation of the premises. Where it is determined that an Off-licence premises will not create any adverse effects on the residential area as defined above, and/or where the Off-licence will be associated with an already granted On-licence, an acceptable closing hour is 1 am.***

## 12.2 Notice of Application:

As a matter of Policy, in reliance on the provisions of Section 31(5) of the Act, the District Licensing Agency will not require the attachment of a Notice of Application on the subject site, but reserves the right to invoke the provisions of Section 31(4) and insist on the placement of such a Notice where, in the opinion of the Agency, the provision of such a Notice is necessary.

## 12.3 Reporting Criteria for Licensing Inspector

The Licensing Inspector's report in respect of an Off licence application will take into account the following:

- The nature of the operation
- The suitability of the applicant
- The hours of operation and the proposed activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- Any other matters in respect of the application promoting the responsible consumption of liquor
- The need to recommend whether or not the Licence should be granted and any special conditions/circumstances.

### Note:

The Licensing Inspector will have copies of any objections or matters raised in opposition by the Police before making a recommendation to the District Licensing Agency or the Liquor Licensing Authority.

Should the Police or the Medical Officer of Health not file a report within the 15 working days allowed under the new legislation, the Administration Manager will advise the Inspector (after 20 working days) that no such report has been received.

## 12.4 Off Licence Renewals

All Off licences are required to be renewed after an initial 12 month period and then every three years thereafter. It is, however, the responsibility of the Licensee to ensure that the renewal application is lodged on time.

## 12.5 Off Licence Renewal Criteria

The criteria for which the District Licensing Agency will consider an application for renewal of an Off licence includes all relevant matters raised by the Police or in the Licensing Inspectors Report.

Matters considered will include, but not be restricted to, the following:

- Any relevant information from any source
- Evidence of the sale or supply of liquor to minors or intoxicated persons, or any other consequences in which the management of the premises is a factor.
- The adequacy and implementation of the premises Host Responsibility Policy
- Any adverse environmental impact
- Any objections/concerns lodged through the public process or raised by any affected parties.
- The approach of the Management of the premises in relation to the spirit and intention of the Act and its requirements, and

- Promotion of the premises and control of liquor abuse. Is the management philosophy in keeping with the spirit of the Sale of Liquor Act?

In undertaking the outcome review of each premises, the District Licensing Agency and/or its Inspectors may take into account the following:

- Information obtained from any public complaint relating to the premises directly or indirectly
- Information obtained from the Police, Medical Officer of Health, Fire Service, or any other body considered appropriate by the Inspector or District Licensing Agency
- Information obtained from any independent study or monitoring commissioned by, or undertaken on, behalf of the District Licensing Agency
- Any other information/source that the District Licensing Agency deems appropriate
- The suitability of the premises and effects of any variation to the conditions sought by the applicant
- In addition to the above criteria, the Licensing Inspector may also take into account the required reporting criteria for Off licence applications

#### **12.6 Supermarkets, Grocery Stores, Service Stations & Dairies. - Off Licences**

The Act provides for supermarkets or grocery stores which meet certain criteria to hold an Off licence to sell wine and beer. The District Licensing Agency when considering an application from such premises will take into account all criteria listed in the Policy relating to other Off licence applications.

The Act does not allow for the sale of liquor from fuel service stations or dairies.

#### **12.7 Host Responsibility - Off Licences**

Off licensed premises should also have their own Host Responsibility Policy. While it is obvious that the requirements for an Off licence are considerably different from that of an On or Club licence, the District Licensing Agency believes that Off licence premises should have its own Host Responsibility Policy appropriate to its particular operation. The Host Responsibility Policy for an Off licence premises should include requirements such as measures to ensure that sales to minors or intoxicated persons do not take place, as well as other measures aimed at reducing alcohol abuse, like the availability and promotion of low alcohol beers, non-alcoholic drinks, and the display of appropriate cautionary measures.

To ensure that sales to minors do not occur, the District Licensing Agency has an expectation of Licensees that they will ensure that staff request production of evidence of age documentation where there is any doubt that a client is of legal age to purchase liquor.

### **13. Temporary Authorities**

Temporary Authorities are granted to allow a person to use a licence that is attached to a premises. These are generally needed when an establishment changes hands. They are issued for three months and can only be issued if there is a current licence for the premises. The District Licensing Agency considers that no more than two Temporary Authorities should be granted in succession for the one premise. If an applicant requires that a further Temporary Authority be issued, the matter will be discussed between the Police, the Inspector and the applicant as to why there is a delay in meeting the requirements for an application for a substantive licence. Where circumstances beyond the applicant's control occur (e.g. administrative delays by external reporting bodies), the District Licensing Agency has the discretionary power to issue any subsequent Temporary Authorities.

## **14. Club Licence Criteria**

### **14.1 Hours of Operation**

The hours of operation are set by the Liquor Licensing Authority or District Licensing Agency after consideration of the reports from the Licensing Inspector, Police, Medical Officer of Health and any objections. An application for a Club licence must comply with the Resource Management Act before it is lodged, however, sometimes additional restrictions in respect of hours of operation are required. This usually relates to the proximity of a licensed premises to a residential area and the nuisance potential which may arise from activities related to the premises. In such instances, restrictions may be imposed. Factors in this may be public concern (ie objections) or concern from the Police, Licensing Inspector etc.

This is of particular relevance to Club licences, as a significant number of Clubs are in or adjacent to residential areas. The sale of liquor must be ancillary to the Club's activities, and the licensed hours must also be relevant. Because of the diversity of activities and locations of Clubs, it is not practical to impose specific restrictions in respect of types of Clubs in residential or non-residential areas. Generally though, there are recommended hours of operation for Club premises which are the parameters within which most Club Licences should fall.

#### ***Policy:***

***That in general the hours of operation for club licence premises must fall within the following parameters:***

<b><i>Sunday to Friday</i></b>	<b><i>8.00am – 12 midnight</i></b>
<b><i>Saturday &amp; Public Holidays</i></b>	<b><i>8.00am – 1.00am the following day</i></b>

***These are not standard hours and the Licensing Inspector or District Licensing Agency will consider each particular application on its merits. For example a club situated in or adjacent to a residential area may be required to close earlier than the times indicated above.***

### **14.2 Notice of Application:**

As a matter of Policy, in reliance on the provisions of Section 55(5) of the Act, the District Licensing Agency will not require the attachment of a Notice of Application on the subject site, but reserves the right to invoke the provisions of Section 55(4) and insist on the placement of such a Notice where, in the opinion of the Agency, the provision of such a Notice is necessary.

### **14.3 Reporting Criteria for Licensing Inspector**

The Licensing Inspector's report in respect of a Club licence application will take into account the following:

- The nature and activities of the club
- The size and membership and degree of social activities
- The hours of operation and their relevance to the club's prime activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- The club's Host Responsibility Policy (includes food, non/low alcohol drink & transport)
- The persons or types of person to whom liquor may be sold pursuant to the licence
- Any other matters in respect of the application promoting the responsible consumption of liquor

- The need to recommend whether or not the licence should be granted and any special conditions/circumstances.
- Whether the club premises are on Council or Reserve property necessitating any special conditions.

**Note:**

The Licensing Inspector should have copies of any public objections or matters raised in opposition by the Police or Medical Officer of Health in their reports before making a recommendation to the District Licensing Agency or the Liquor Licensing Authority.

**14.4 Club Licence Renewal**

All Club licences are required to be renewed after an initial 12 month period and then every three years thereafter. It is the responsibility of the Club to ensure that the renewal application is lodged on time.

**14.5 Club Licence Renewal Criteria**

The criteria under which the District Licensing Agency will consider an application for renewal of a Club licence will include all relevant matters raised by the Police, Medical Officer of Health or in the Licensing Inspectors Report.

Matters considered will include, but not be restricted to, the following:

- Any relevant information from any source
- Evidence of the sale or supply of liquor to minors, intoxication, behavioural problems, motor vehicle accidents, violence or any other anti-social acts or consequences in which the management of the premises is a factor.
- The adequacy and implementation of the premises Host Responsibility Policy
- Any adverse environmental impact
- Any objections/concerns lodged through the public process or raised by any effected parties.
- The approach of the management of the premises to the Act and its requirements, and
- Promotion of the premises and control of liquor abuse, having regard to the spirit and intention of the Act.

In undertaking the review of each premises, the District Licensing Agency and or its inspector may take into account the following:

- Information obtained from any public complaint relating to the premises directly or indirectly
- Information obtained from the Police, Medical Officer of Health, Fire Service or any other body considered appropriate by the Inspector or District Licensing Agency
- Information obtained from any independent study or monitoring commissioned by or undertaken on behalf of the District Licensing Agency
- Any other information/source that the District Licensing Agency deems appropriate
- The suitability of the premises and effects of any variation to the conditions sought by the applicant
- In addition to the above criteria the Licensing Inspector may also take into account the required reporting criteria for Club licence applications

**15. Special Licence Criteria****15.1 Special Licence**

A Special licence can be issued pursuant to either Section 73 or 74 of the Act. A Special licence issued under Section 73 authorises the holder of the licence to sell and supply liquor on or off the premises or conveyance described in the licence to anyone attending any occasion or event or series of occasions or events described in the licence.

A Special licence issued under Section 74 authorises the holder of an On Off or Club licence to sell and supply liquor for consumption on and off the premises, at any time when the premises are required to be closed for the sale of liquor, to persons attending social gatherings of any kind specified in the licence, or to extend hours in the case of an Off-Licence.

## 15.2 “Occasion or Event or a Series of Occasions or Events” and “Social Gatherings”

An occasion or event or series of occasions or events can be any lawful purpose. A social gathering must involve people sharing a common interest with the principal activity of the function being something other than the consumption of liquor. There is a need to separate an "occasion or event or series of occasions or events" and "social gatherings" from a regular activity that would be covered by an On, or a Club licence.

This Policy endeavours to define the legitimate use of a special licence and the point at which the activity is one for which an on, off or club licence should be sought. *This is a general policy only and should be applied in respect of the merits of each particular Special Licence application.*

### **Policy:**

- *An occasion or an event is, or can be, any identifiable events or activities of an On, Off or Club licensed premises, or an event or occasion being promoted by a member of the public on any unlicensed premise, the principal purpose of which is not the consumption of liquor.*
- *A series of occasions or events is defined as a series of related events or activities, which has specified beginning and end points.*
- *A special licence will not be issued where, in the opinion of the District Licensing Agency, the extent or regularity of the activity is such that an On, Off or Club licence is required by the Act.*
- *In all cases the supplier of alcohol to be sold under the Special licence must be the applicant.*
- *Special Licence conditions may require the prospective Licensee to undertake appropriate training in the Sale of Liquor Act.*
- *Each application will be considered on its merits.*

## 15.3 Private Social Gatherings on Licensed Premises

If a private social gathering (e.g. a wedding or birthday party) is being held on a licensed premises outside the hours or conditions of the licence and the host of the function is giving the liquor to their guests and paying the licensee for the cost afterwards, the person selling the liquor (ie the licence holder) requires a Special Licence.

## 15.4 Notice of Application:

As a matter of Policy, in reliance on the provisions of Section 76(4) of the Act, the District Licensing Agency will not require the attachment of a Notice of Application on the subject site, but reserves the right to insist on the placement of such a Notice where, in the opinion of the Agency, the provision of such a Notice is necessary.

## 15.5 Special Licence Procedure

- All applications for Special licences should be submitted at least 20 working days prior to the event. Applications received later than 20 days prior to the event will be accepted and processed only where, in the opinion of the District Licensing Agency Secretary or a delegated officer, it is practicable to do so.
- All applications for special licences will be referred to the Police and Licensing Inspector for reports as required by the Act. Note that the provisions of Section 78 (2), (3) & (4) of the Act which require the Police to report within 15 working days will apply.
- Where the District Licensing Agency Sub-Committee (secretary or delegated officer) consider it appropriate the Medical Officer of Health may also be consulted and requested to comment on a particular special licence application.
- The Secretary of the District Licensing Agency (or delegated officer) may require public notice of a special licence application.
- Where there are no objections or matters raised in opposition by the Licensing Inspector or Police, the special licence will be granted subject to any conditions imposed by the District Licensing Agency.
- Where there are any objections or the Licensing Inspector or Police raise any matters in opposition to a special licence application, the applicant will be advised and given a copy of the relevant report.
- The applicant will also have the opportunity to meet with the Licensing Inspector and Police in order to resolve any matters in opposition before the application proceeds to a public hearing.

## 15.6 Reporting Criteria for Licensing Inspector

The Licensing Inspector's report in respect of a Special licence application will take into account the following:

- The nature of the event for which the licence is being sought
- The suitability of the applicant
- The hours of operation and the proposed activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- Any other matters in respect of the application promoting the responsible consumption of liquor
- The need to recommend whether or not the licence should be granted and any special conditions/circumstances.

## 15.7 Hours for Special Licences

Restrictions on hours may be imposed if the District Licensing Agency Sub-Committee considers it appropriate, in respect of any environmental or other considerations which may require constraints on the hours of operation. Such issues may be raised by the Licensing Inspector, Police or other relevant effected parties.

## 15.8 Designation of Areas for Special Licences

The District Licensing Agency may impose such designations as to “restricted” or “supervised” after consultation with, or upon recommendation from, the Licensing Inspector or Police.

## 15.9 Certified Manager in Attendance

The Rotorua District Licensing Agency may require, as a condition of a special licence, that the holder of a General or Club Manager's Certificate be responsible for the sale of liquor under that licence.

### 15.10 Food

It is accepted that no two Special licence applications are the same, however, the supply of food must be commensurate with the type of function and the number of people attending, so the following definitions are considered appropriate:

- (a) **Snack Food** – potato crisps, nuts, twisties, cracker biscuits and cheese, pickles, salad vegetables as a dip, nachos, canapés to name just a few.
- (b) **Light Food** – pies, filled rolls, toasted sandwiches, french fries, hot savouries etc.
- (c) **Substantial Food** – buffet, menued meals, smorgasbords, fish and chips or similar.

## 16. Managers Certificate Criteria

### 16.1 New Applications

The Act defines the process for considering applications for Managers Certificates. Unopposed applications are considered by the District Licensing Agency, while applications that are opposed by the Licensing Inspector or Police are referred to the Liquor Licensing Authority. The DLA or LLA must have regard to the following matters when considering an application for a Manager's Certificate:

The applicant's character and reputation:

- Any criminal convictions
- Experience, in particular recent experience, in the control of a licensed premises
- Training, in particular recent training relevant to the Sale of Liquor Act 1989 that the applicant has undertaken
- Issues raised by the reports from the Inspector [which will be prepared following an interview to determine the applicant's knowledge of the Sale of Liquor Act 1989] and the Police
- For Club Manager's applications, the DLA will also consider their involvement in the Club's activities

Applications for Managers Certificates are referred to the Licensing Inspector and Police for reports. The Licensing Inspector and Police will report to the District Licensing Agency on the suitability of the applicant in respect of the above criteria.

#### ***Policy:***

***The District Licensing Agency will grant applications for Managers Certificate Applications in circumstances where:***

- ***The Licensing Inspector and Police have reported on the application in accordance with the specified criteria and have raised no matters in opposition, and***

### 16.2 Manager's Certificate Renewals

Applications for renewal of Manager's Certificates are also referred to the Licensing Inspector and Police for reports. The Licensing Inspector and Police will consider any matters brought to their attention in respect of the individual's performance during the term of the certificate in

regard to the above criteria. Where there are no matters raised in opposition by the Licensing Inspector or Police, the application will be approved by the District Licensing Agency. Where any matters are raised in opposition, the application will be referred to the Liquor Licensing Authority.

***Policy:***

***The District Licensing Agency will renew Managers Certificates in circumstances where:***

- ***The Licensing Inspector and Police have reported on the application in accordance with the specified criteria and have raised no matters in opposition, and***
- ***The applicant has satisfactorily completed and returned a questionnaire to determine knowledge of current legislation (Sale of Liquor Act).***

**17. Enforcement Procedures**

The District Licensing Agency is involved in the enforcement of the Act and works closely with the Police and other agencies, such as the Public Health Service. The agencies generally pursue a consultative approach to enforcement issues with Licensees having an opportunity to address issues of concern before the agencies will refer a matter to the District Court or the Liquor Licensing Authority.

The Sale of Liquor Amendment Act 1999 has lowered the minimum drinking age to 18, introduced an “evidence of age” document and significantly increased penalties for particular infringements which are referred to in section 132A of the Act. These particular infringements are:

- Sale or supply of liquor to minors
- Sale or supply of liquor to intoxicated persons
- Allowing a person to become intoxicated
- Unauthorised sale or supply

This places a significant responsibility on Licensees to comply with the legislation and the regulatory agencies to monitor and enforce it. To be effective, the approach of the agencies which is reflected in this policy needs to be clear and consistent.

**17.1 Enforcement Procedure for “Section 132A “ category offences**

- Where the Licensing Inspector is satisfied that one of the following offences has been committed they may file an application with the Liquor Licensing Authority under s.132A accordingly.
  - Sale or supply of liquor to minors
  - Sale or supply of liquor to intoxicated person
  - Allowing a person to become intoxicated
  - Unauthorised sale or supply
- If a Licensee or Manager or other person is found guilty of one of the above offences in the District Court, then the Police are obliged to advise the Liquor Licensing Authority under section 132A. The Liquor Licensing Authority must then immediately consider whether to hold a hearing or to adjourn the hearing to allow the licensee to remedy the situation.

**17.2 Enforcement Procedure for other offences under the sale of Liquor Act**

Where the agencies are aware of an enforcement issue with a licensed premises the following actions will be taken:

- The licensee will be requested to meet with representatives of the District Licensing Agency Subcommittee and Police to discuss any enforcement issues or infringements of the Act. This meeting will identify solutions or action that should be taken in order to rectify the situation.
- The District Licensing Agency Subcommittee will document the meeting, noting any infringements of the Act that may have taken place, noting the issues raised with the licensee and the action that the District Licensing Agency and /or the Police require in order to remedy the situation.
- Copies of documentation of the meeting and any related correspondence are placed on Licensees records for future reference.
- Ongoing monitoring of the premises will continue.
- In cases where continual enforcement problems are encountered without satisfactory remedial measures being undertaken by the licensee the District Licensing Agency will take further action under the enforcement provisions of the Act. These could include application for a variation, suspension, or cancellation of a licence under Section 132 of the Act, or the suspension or cancellation of a Manager's Certificate under Section 135.
- In addition, the Fire Service and Medical Officer of Health may request the suspension of a licence for non-compliance with public health or fire safety requirements.

### **17.3 Infringement Notices**

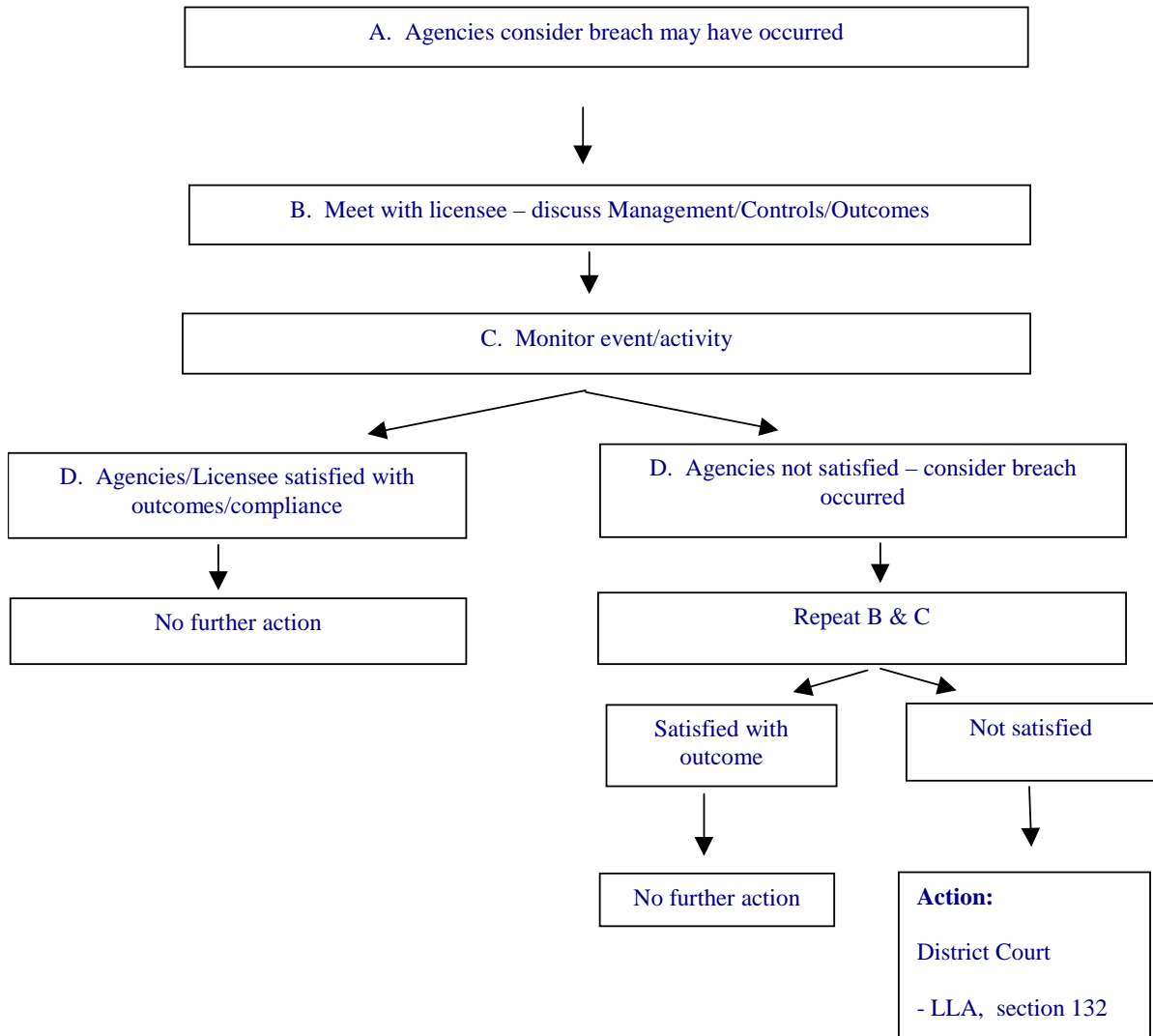
Where the Police have issued infringement notices in respect of minors being on licensed premises illegally or having purchased liquor from a licensed premises the regulatory agencies will give consideration to taking enforcement action in accordance with clause **17.1** or **17.2** of the Policy.

### **17.4 Anomalies arising from legislation interpretation**

It is inevitable that from time to time anomalies will become apparent particularly in respect of the new legislative environment. Where this occurs the agencies and industry need to cooperate towards practical common sense solutions bearing in mind the object of the Act. Where legitimate anomalies arise the enforcement agencies will endeavour to work towards achieving a satisfactory solution expeditiously.

### **17.5 Example of the Enforcement process**

The following is an example of how the enforcement procedures work.



The above flowchart indicates how the enforcement process works for infringements or issues other than those specifically mentioned in section 132A.