

Dunedin City Council District Licensing Agency

Sale of Liquor Policy

Effective 1 July 2006

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 the promotion of responsible attitudes and a mature approach to liquor consumption to both licensees and the public.

The District Licensing Agency carries out its role in conjunction with the other regulatory agencies pursuant to the Act - the Dunedin Police and Public Health South. These agencies operate on a partnership basis formalised through a heads of agreement signed by all 3 parties. This is known as the Dunedin Alcohol Partnership.

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 that guide liquor licensing within the City Council area and specifies 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 in or adjacent to residential areas, 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 Dunedin regulatory agencies carry out a proactive approach to liquor licensing, which includes working with the industry and implementing promotional activities and strategies, encouraging compliance with the legislation and the creation of safe drinking environments. The agencies believe this approach reduces the need for enforcement action at a later date and is more cost effective.

The projects and strategies carried out by the agencies target the industry, general public and identified groups. The agencies specify the goals and objectives of the projects at the commencement of each financial year.

4. The Public Role in the Licensing Process

The District Licensing Agency and its regulatory partners 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 (i.e. the Council) in this process. Public feedback on liquor issues including national and local policies has been obtained through three “Attitudes to Alcohol” Dunedin surveys in 1993, 1998 and 2003. Data obtained has been used to ensure that the goals and objectives of the strategies are effective.

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

Policy

The Dunedin 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 public responsibility in ensuring a responsible approach to liquor consumption.**

5. Alcohol Health Promotion and Communication

The District Licensing Agency recognises that, rightly or wrongly, alcohol is part of the New Zealand social fabric and that the general public and the individual has a responsibility to maintain 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 (e.g., 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 Dunedin Police and Public Health South, will continue to carry out strategies promoting a responsible attitude towards the use of alcohol. Strategies will be targeted at specific groups that are appropriate and timely. These include:

5.1 Youth as a primary target with parents and other adults as a secondary target

Strategies will encourage moderation and responsible use of alcohol as well as affirming those who chose not to drink. Strategies will also target 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 emphasise moderation, responsibility and respecting other people and their rights. The general public needs to be aware of the requirements of the 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 to licensees and licensed premises staff to create an awareness of and compliance with the legislative requirements.

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 and 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 other relevant bodies and groups including ALAC, Police National Headquarters, HANZ, SCANZ, etc.

Policy

The Dunedin District Licensing Agency maintains a continuing public awareness and communication role targeting the above-mentioned groups, with a view to increasing public awareness of the need for moderation in alcohol consumption and a high level of 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 a range of food, low and non-alcohol drinks, serving alcohol with care and responsibility, responsible approaches to dealing with intoxicated and underage people and information about safe transport options. The Liquor Licensing Authority or District Licensing Agency can impose other conditions it considers appropriate to promote the responsible consumption of liquor. For all licence and renewal applications the Dunedin District Licensing Agency requires a written Host Responsibility Policy detailing the premises' approaches to the above matters.

Policy

- **All licensed premises are required to have a written, operating Host Responsibility Policy. This 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 licence and renewal applications.**

7. Alcohol Promotions

Section 154A of the Act states: " Every person commits an offence and is liable to a fine not exceeding \$5000 who, being a licensee or manager of licensed premises, does 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 **intended or likely to encourage** persons on the licensed premises to consume alcohol to an excessive extent."

A "National Protocol on Alcohol Promotions" has been distributed to all regulatory 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 Dunedin 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 is in breach of 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 is a passport, NZ photo drivers' 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

- **That all licensees are encouraged to require evidence of age documents (passport, NZ photo driver's licence or HANZ 18+ card) for age verification purposes. The agencies will take practicable steps to actively encourage the use of evidence of age documents.**
- **That all licensees are encouraged to adopt a policy of requesting identification of all people appearing to be under the age of 25 years.**

9. Liquor in Containers other than Glass after 10.00 pm

Because of concerns about the danger caused by discarded glass bottles in public places the DLA believes that a reduction of the sale of liquor in glass containers from off licences after 10.00 pm would reduce the amount of this type of litter.

Accordingly all off licensed premises in Dunedin are requested, where practical, to sell only liquor packaged in non glass containers after 10.00 pm.

The purpose of this policy is to reduce the amount of glass discarded by pedestrian traffic moving around the city at night. Where bottled liquor is being sought after 10.00 pm for other reasons, management discretion should apply.

Policy

That all licensed premises are requested to sell only liquor packaged in non-glass containers (where practical) for consumption off the premises after 10.00 pm.

10. Breweries

Breweries (and wineries) wishing to sell liquor to members of the public need to obtain either on or off licences in accordance with the Act.

The District Licensing Agency recognises that breweries should be a partner in any activities or initiatives with the objective of reducing liquor abuse. It is important that breweries maintain a responsible public role, particularly in the promotion of their products. Breweries also have significant influence on the target groups of the projects carried out by the agencies. The agencies will therefore endeavour to work with breweries as partners in promotions and strategies targeting the responsible use of liquor.

Brewery representatives should be aware of, and encourage compliance with, the guidelines set down in the National Protocol on Alcohol Promotions.

Policy

- **The District Licensing Agency will encourage breweries operating in Dunedin to carry out all promotions or sponsorship activities in a responsible and balanced manner.**
- **The District Licensing Agency will encourage participation from the breweries in projects and strategies targeting moderation and responsibility with liquor.**
- **That the District Licensing Agency convenes regular meetings (at least annually) with the major breweries operating within its area to discuss matters of concern and mutual interest.**

11. 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:

11.1 District Licensing Agency:

- Determining unopposed applications and renewals for on, off and club licences and managers' 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.

11.2 Functions of the Licensing Inspector include:

- Reporting on all applications and renewals for licences and managers' certificates 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 premises at any reasonable time (the inspector must carry a warrant of appointment).
- Ability to require seeing 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.

11.3 Liquor Licensing Authority:

- Determining opposed applications and renewals for on, off and club licences and manager's 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 manager's certificates from the Police or a Licensing Inspector.
- Considering the suspension or cancellation of licences in respect of certain offences (relating to 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.

11.4 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 Dunedin City 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 relevant available information.

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.

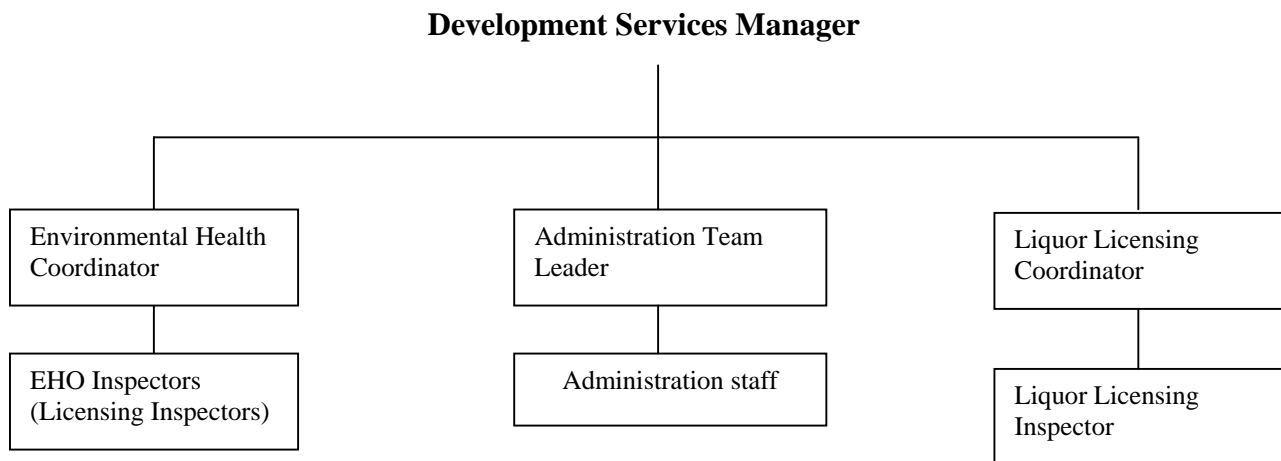
11.5 The Political Function

The District Licensing Agency will operate in accordance with this policy as adopted by the Dunedin City Council. The District Licensing Agency Committee (Consent Hearings Committee) will meet on an as required basis. This committee operates within the overall council policy and is delegated to consider opposed special licence or temporary authority applications or other applications that fall outside the parameters of the policy.

11.6 The District Licensing Agency Function and Structure

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

The diagram below indicates the relevant staff structure within the Development Services Department.



11.7 The Administrative Role

The administrative role is the responsibility of the Administration Team Leader and includes receiving all liquor licence and certificate applications, checking 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.

11.8 The Inspectorial Role

The council has a dedicated Environmental Health Officer appointed as Licensing Inspector pursuant to the Act. The inspector reports on all applications for licences, manager's certificates and renewals. The Environmental Health Coordinator is also responsible for the monitoring and enforcement requirements of the legislation in conjunction with the other statutory agencies.

11.9 The DLA Secretarial Role

The Chief Executive is the Secretary of the District Licensing Agency. The Liquor Licensing Coordinator carries out the duties of the Secretary under delegated authority. All complete applications are forwarded to the Liquor Licensing Coordinator to be 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 issued in accordance with the delegated authority. If the application does not comply with the policy it is referred to the DLA Committee for consideration. The Liquor Licensing Coordinator is responsible for the coordination 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 (i.e. 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.

11.10 District Licensing Agency Roles in the Licensing Process

Council

- Set the DLA policy and delegations and oversee the licensing process

DLA Committee

- Meetings as required dealing with opposed special licence or temporary authority applications and unopposed applications that are an exception to the Council's policy.
- Receive a monthly status report of all applications considered under delegated authority and their outcome.

DLA Secretary

- Role carried out by the Licensing Coordinator under delegated authority.
- Responsible for administration of and compliance with the Sale of Liquor Policy.
- Check all applications for compliance with legislation/LLA guidelines and the Council policy.
- Delegated authority to issue licenses and certificates that comply with legislation, LLA guidelines and the DLA policy.
- Other applications are referred to the DLA Committee or to the Liquor Licensing Authority as appropriate.
- Objections/matters in opposition referred to the Liquor Licensing Authority.

Licensing Inspector

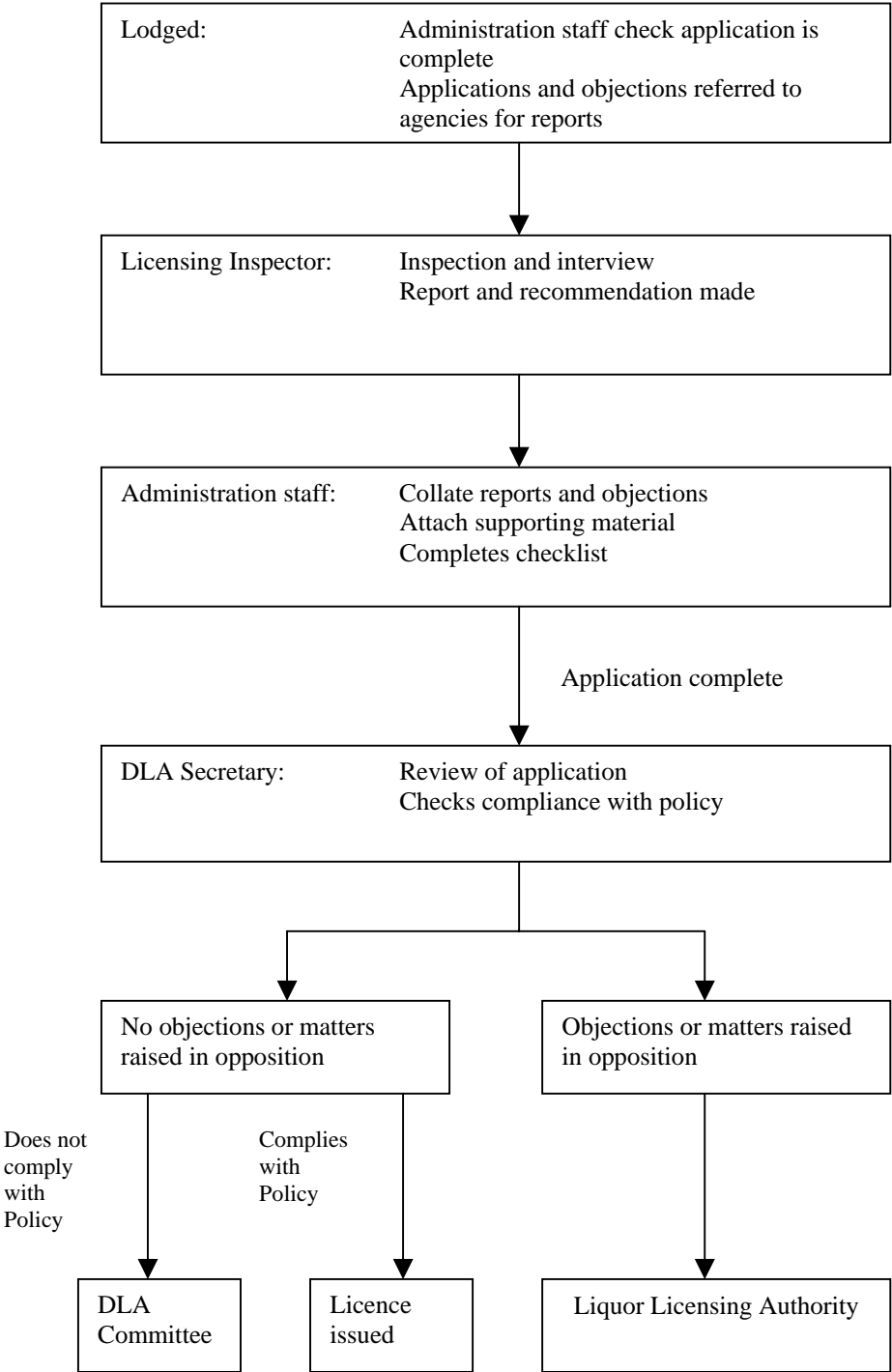
- Reports to the Liquor Licensing Coordinator.
- Environmental Health Officers are warranted as Licensing Inspectors.
- Inspection and interview in respect of all licence applications.
- Report on all applications.
- Appear before the DLA Committee and LLA as required.
- Enforcement issues – monitoring and compliance.

Development Services Administration

- Receive applications.
- Check for completeness and supporting documentation.
- Obtains reports from Inspector and regulatory agencies.
- Obtains reports from Inspector and regulatory agencies.
- Completes the file for the DLA secretary.

11.11 Flow Chart - The DLA Role in the Licence Application Process

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



12. On-Licence Criteria

12.1 Hours of Operation in or adjacent to a Residential Area

The Liquor Licensing Authority or District Licensing Agency sets the hours of operation after considering the reports from the Licensing Inspector, Police and Medical Officer of Health and any objections. An application for an on-licence must meet the requirements of the Resource Management Act and District Plan 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 that may arise from activities related to the premises. In such instances restrictions may be imposed. Factors in this may be public concern (i.e. objections) or concern from one of the regulatory agencies (i.e. Police, Licensing Inspector, Medical Officer of Health).

Policy

That there be a restriction on the hours of operation of on-licence premises in or adjacent to residential areas, as follows:

Sunday to Thursday 9.00 am - 11.00 pm.

Friday and Saturday 9.00 am - 12.00 midnight

These hours are intended as a guideline only and may be modified by the District Licensing Agency, taking each individual situation into consideration.

12.2 Non Residential Areas

Dunedin has, in the past, allowed licensed premises to operate 24 hours per day. Unfortunately this has coincided with an increase in the incidence of alcohol related crime and disorder in the city. In *Buzz & Bear Limited v. Woodroffe [1996] NZAR 404 at 410*, McGechan J said, "Times change. Communities and environments change. Social habits and levels of tolerance change... Any licensee takes a licence under the risk that conditions may change, and a report may recommend adjustment." In *Ronald Cornelius Van der Lem, LLA PH126/2004* the Authority said, "For some time now the Authority has become concerned at the results of extensive licensing hours..." The Dunedin City Council believes there is a need for premises to be allowed to open to cater for the increasing late night demand. In setting the hours in the policy the District Licensing Agency has adopted the guidelines used by the Liquor Licensing Authority as described in *K R Burton and C A Burton, LLA 2020 – 2025/95*:

- a) If there are residential neighbours, closure is around 11.00 pm weekdays and midnight or 1.00 am on Friday and Saturday nights;
- b) In other cases closure is at 3.00 am; and
- c) 24-hour licences are the exception rather than the norm

Licences for hours outside those set in the policy may be granted but the application will be determined at a public hearing convened by the District Licensing Agency Hearings Committee. The applicant will be given the opportunity to demonstrate a commitment to the application by explaining how he/she will comply with the provisions of the Sale of Liquor Act and reduce alcohol related harm.

The Central Business District has traditionally been considered a non-residential area. However some commercial buildings are now being developed into residential apartments. Licensees need to be aware that non-residential areas of the past may need to be considered as being adjacent to residential areas for new applications and renewals.

Policy

That there be a restriction on the hours of operation of on-licensed premises in non-residential areas as follows:

Monday to Sunday 7.00 am to 3.00 am the following day

Applications for hours outside 7.00 to 3.00 am the following day will be accepted and forwarded to the District Licensing Agency Committee for their determination at a public hearing.

Notes:

"Residential" and "non-residential" referred to above are not definitions from the council's District Plan. For the purpose of this Policy a residential area can be "an area where, in the opinion of the Licensing Inspector, Police or Medical Officer of Health, the establishment or operation of licensed premises may have an adverse impact on residential habitat".

For example: a licensed premises may be located in a non residential area, however the effect of traffic travelling to and from the premises through an adjacent residential area could have a detrimental effect on that adjacent residential area.

12.3 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 opposition to the application.
- The applicant's Host Responsibility Policy (includes food, non/low alcohol drink & alternative transport).
- The persons or types of person to who 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 should have copies of any public 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.

12.4 On-Licence Renewals

All on licences are required to be renewed after an initial 12-month period and then every three years thereafter. The District Licensing Agency will send a reminder notice to all licensees advising that their licence is due for renewal. It is the responsibility of the licensee to ensure that the renewal application is lodged on time.

12.5 On-Licence Renewal Criteria

The criteria for 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 Inspectors report.

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

- Outcomes review of the premises.
- 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 notification process or raised by any affected parties.
- The approach of the management of the premises to the Act and its requirements.
- Where it is necessary, the declaration that there is a current approved Fire Evacuation Scheme in place.
- Promotion of the premises and control of liquor abuse. Is the management philosophy in keeping with the spirit of the Act?

In undertaking the outcome 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 on licence applications.

12.6 Designations

The Dunedin District Licensing Agency believes that one way of gaining a reasonable system of control over the sale and/or supply of liquor is to have a designation on a premises. This ensures any person under the age of 18 years present on the premises is accompanied by a parent or legal guardian.

Policy

The Dunedin District Licensing Agency will support licensees by imposing a designation, for any reason whatsoever, if requested to do so by a licensee.

12.7 Maximum Occupancy of Premises

There has been concern expressed at the overcrowding of premises in the city at different times. Prior to 1992 it was a requirement of hotels and taverns to display the maximum number of patrons allowed in a premises. There have been several high profile hotel/nightclub fires overseas that have raised the awareness of overcrowding in Dunedin's premises. As a matter of safety for patrons and staff it is considered prudent that the maximum occupancy number is displayed at the principal entrance alongside the liquor licence. Licensees shall have one year from the date of adoption of this policy to comply with this requirement. The Dunedin City Council is able to assist in determining this number.

Policy

The maximum occupancy number shall be required to be displayed at the principal entrance of all on-licensed premises.

13 Off-Licence Criteria

13.1 Hours of Operation in or Adjacent to a Residential Area

The Liquor Licensing Authority or District Licensing Agency sets the hours of operation after considering the reports from the Licensing Inspector and Police and any objections. An application for an off licence must meet the requirements of the Resource Management Act and District Plan 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 (i.e. objections) or concern raised by a regulatory agency (Police or Licensing Inspector).

The District Licensing Agency notes that there is a difference between "*stand alone*" off licences (i.e. 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

That there be a restriction on the operation of off-licence premises in or adjacent to residential areas as follows:

Sunday to Thursday	9.00 am - 11.00 pm
Friday and Saturday	9.00 am to 12.00 midnight

13.2 Non-Residential Areas

There is now greater focus on the sale and supply of liquor from off-licensed premises and the harm that is being caused by off licence consumption. It is acknowledged that most of the bulk purchasing of liquor is occurring during the day and early evening and therefore there is no compelling reason to restrict the hours of operation. However, licensees must remain cognisant of their responsibilities and actively manage their premises.

The Central Business District has traditionally been considered a non-residential area. However, some commercial buildings are now being developed into residential apartments. Licensees need to be aware that non-residential areas of the past may need to be considered as being adjacent to residential areas for new applications and renewals.

Policy

The Dunedin District Licensing Agency will not impose any restrictions on the hours of operation in non-residential areas but will consider each application on its merits taking into consideration any issues raised by the reports submitted by the Licensing Inspector and/or Police.

Note:

"Residential" and "non residential" referred to above are not definitions from the council's District Plan. For the purpose of this policy a residential area can be "an area where in the opinion of the Licensing Inspector or Police the establishment or operation of licensed premises may have an adverse impact on residential habitat".

For example: a licensed premises may be located in a non residential area, however the effect of traffic travelling to and from the premises through an adjacent residential area could have a detrimental effect on that adjacent residential area.

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

13.4 Retail Liquor Outlets – designations

Liquor cannot be sold to people under the age of 18 years under any circumstances. Liquor retail outlets that derive the majority of their income from the sale of liquor, e.g., bottlestores, shall generally carry a designation. This is in line with the current direction of the Liquor Licensing Authority.

Policy

That retail liquor outlets that derive the majority of their income from the sale and/or supply of liquor will generally be designated either 'supervised' or 'restricted' premises.

13.5 Off-Licence Renewals

All off-licences are required to be renewed after an initial 12-month period and then every three years thereafter. The District Licensing Agency will send a reminder notice to all licensees advising that their licence is due for renewal. It is the responsibility of the licensee to ensure that the renewal application is lodged on time.

13.6 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:

- Outcomes review of the premises.
- 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 to the Act and its requirements.
- Promotion of the premises and control of liquor abuse. Is the management's 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 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 off-licence applications.

13.7 Supermarkets and Grocery Stores – Off-Licences

The Act provides for supermarkets or grocery stores that 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.

13.8 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 such premises should have one 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.

14. Club Licence Criteria

14.1 Hours of Operation

The Liquor Licensing Authority or District Licensing Agency sets the hours of operation after considering the reports from the Licensing Inspector, Police, Medical Officer of Health and any objections. An application for a club licence must meet the requirements of the Resource Management Act and District Plan 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 (i.e. objections) or concerns raised by one of the regulatory agencies (Police, Licensing Inspector, Medical Officer of Health).

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:

Sunday to Friday	8.00am – 12.00 midnight
Saturday & Public Holidays	8.00am – 1.00am the following day

These are not standard hours and the Licensing Inspector or District Licensing Agency will consider each 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 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, 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 who 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.
- Are the club premises on Council or Reserve property with any special conditions applying?

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.

14.3 Club Licence Renewal

All club licences are required to be renewed after an initial 12-month period and then every three years thereafter. The District Licensing Agency will send a reminder notice to all licensees advising that their licence is due for renewal. It is the responsibility of the club to ensure that the renewal application is lodged on time.

14.4 Club Status

All clubs must be registered with the Companies Office as an Incorporated Society in order to retain their liquor licence. At the time of renewal the status of the club will be checked with the Companies Office. If it is found that the club has been 'struck off' the Companies Office Register it will be advised and given a reasonable time to be reinstated. The renewal process will be suspended pending the reinstatement. If the club cannot retain its original name the law requires a new licence application to be submitted.

Policy

- **When a club is found to have been struck off the Companies Office register the club will be given a reasonable time to be reinstated.**
- **If a club cannot be re-registered with the original name the DLA will be obliged to request an application for a new club licence.**

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:

- Outcomes review of the premises.
- 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 affected parties.
- The approach of the management of the premises to the Act and its requirements.
- Promotion of the premises and control of liquor abuse. Is the management philosophy in keeping with the spirit of the Act?

In undertaking the outcome 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.

14.6 Management of Clubs

Members of clubs are not deemed to be members of the public for the purpose of the Sale of Liquor Act therefore there is no requirement to have a manager on duty at the premises when it is open for the sale and supply of liquor. The Dunedin District Licensing Agency believes that, because of the serious consequences of breaching the Act, a certified manager should be present on the premises whenever it is open.

Policy

That it is recommended of clubs that a certified manager is on duty whenever the premises is open for the sale and/or supply of liquor.

14.7 Maximum Occupancy of Premises

There has been concern expressed at the overcrowding of premises in the city at different times. Prior to 1992 it was a requirement of hotels and taverns to display the maximum number of patrons allowed in a premises. There have been several high profile hotel/nightclub fires overseas that have raised the awareness of overcrowding in Dunedin's premises. As a matter of safety for patrons and staff in **all** premises it is considered prudent that the maximum occupancy number is displayed at the principal entrance along side the liquor licence. Licensees shall have one year from the date of adoption of this policy to comply with this requirement. The Dunedin City Council is able to assist in determining this number.

Policy

The maximum occupancy number shall be required to be displayed at the principal entrance of all club-licensed premises.

15. Special Licence Criteria

15.1 What is a Special Licence?

A special licence can be issued pursuant to either Section 73 or 74 of the Act to cover events that involve the sale and supply of alcohol either by cash sales, tickets or tokens and are not covered by an existing liquor licence. This includes clubs when the event is not related to that club's usual activities.

A special licence issued under Section 73 authorises the holder of the licence to sell and supply liquor on 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 or club licence to sell and supply liquor for consumption on 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.

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 for 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, off or 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 event can be any identifiable event and should be outside the usual or regular activities of an on, off or club licensed premises.**
- **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 can be used for any lawful activity that does not fall into the regular activity of any other category of licence specified in the Act.**
- **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.**

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 (i.e. the licence holder) requires a special licence.

15.4 New Year's Eve

New Year's Eve is one night of the year when there is general community tolerance for the celebration of the New Year. As the night falls on different days of the week, a lot of premises will not have existing hours to cover the night's revelry. The DLA considers this night a special occasion and will accept special licence applications from on and club licensees to extend hours for the night.

Policy

- **Premises will be granted their Saturday night hours upon the receipt of a special licence application.**
- **Premises that do not have Saturday night hours that would allow them to celebrate this event will be granted a closing time of 1.00 am on New Year's day upon the receipt of a special licence application.**

15.5 Sacrosanct Days

It is a condition of every on-licence granted in respect of hotels and taverns that no liquor is to be sold or supplied on Good Friday, Easter Sunday, Christmas Day, or before 1.00 pm on Anzac Day to any person other than those living on the premises or who are present on the premises for the purpose of dining.

The Dunedin District Licensing Agency regularly grant special licenses to premises for the sacrosanct days with a closing time of 3.00 am. The agency considers Easter, Christmas and Anzac Day to be legitimate occasions and therefore worthy of celebration. Dunedin also has a young population that enjoys the nightlife. It is preferable to have this population in a more controlled environment rather than have them wandering the streets with nowhere to 'socialise'.

The Liquor Licensing Authority, in its report to the House of Representatives for the 12 months ended 30 June 2004, reiterated its desire for a law change to allow hotels and taverns to trade to 3.00 am on the sacrosanct days.

Policy

The Dunedin District Licensing Agency will automatically grant a Special Licence to allow premises to trade until 3.00 am, or to the licensed closing time (which ever is the earliest) on the sacrosanct days.

15.6 Special Licence Procedure

- All applications for special licences should be submitted at least **10 working days** prior to the event. Applications received later than 10 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.
- Where the District Licensing Agency (secretary or delegated officer) considers 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 to resolve any matters in opposition before the application proceeds to a public hearing.

15.7 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.

15.8 Hours for Special Licences

The Dunedin District Licensing Agency does not have a policy imposing general restrictions on the hours of operation for special licence events. However restrictions on hours will be imposed if the District Licensing Agency

consider it appropriate in respect of any environmental or other considerations which may require constraints on the hours of operation. The Licensing Inspector, Police or other relevant effected parties may raise such issues.

15.9 Designation of Areas for Special Licences

The District Licensing Agency may require that a particular area in respect of a special licence be designated either a 'restricted' or 'supervised' area in accordance with the Act. The District Licensing Agency may impose such a designation after consultation or upon recommendation from the Licensing Inspector or Police.

15.10 Certified Manager in Attendance

The Dunedin 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.

16. Manager's Certificate Criteria

16.1 New Applications

The Act defines the process for considering applications for Manager's 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 that the applicant has undertaken.
- Issues raised by the DLA will also consider their involvement in the club's activities.
- Applications for reports from the Inspector and the Police.

For club manager's applications 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.

Other factors considered include the type of premises to be managed by the applicant and the age of the applicant. If it is considered appropriate the applicant may be granted a Manager's Certificate allowing them to manage a specific premises, or type of premises, for example, grocery stores and other off-licensed premises, if the applicant signs an undertaking not to use the certificate in any other premises before gaining the requisite experience and advising the District Licensing Agency.

Policy

The District Licensing Agency will grant applications for Manager's 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.**
- **The applicant has submitted proof of having obtained any prescribed qualifications.**
- **A certificate may be issued in cases where the applicant is young and/or experience is limited but appropriate for the premises to be managed, for example, grocery stores and other off-licensed premises, if the applicant signs an undertaking not to use the certificate in any other premises before gaining the requisite experience and advising the District Licensing Agency.**

Policy

The DLA will review applicants' criminal convictions (Crimes Act, Summary Offences Act, Transport Act drink driving provisions and the Misuse of Drugs Act) in the following manner:

- **Minor convictions greater than two years old will not be considered in determining the suitability of the applicant.**
- **Serious convictions greater than five years old will not usually be considered in determining the suitability of the applicant unless the circumstances of the conviction is of concern to the police.**
- **Alcohol related convictions would generally be considered to be serious for the purpose of the Act.**
- **A history of convictions would generally indicate to the District Licensing Agency reluctance on the part of the applicant to uphold the law.**

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 Certificate's 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.**
- **The applicant has submitted proof of having obtained any prescribed qualifications.**

16.3 Licence Controller Qualification

The final amendment to the Sale of Liquor Act, the Sale of Liquor Amendment Act 1999 has been passed into law. The following will apply from the dates indicated. By 31 March 2008 all holders of Manager's Certificates will hold the Licence Controllers Qualification.

- A Licence Controller Qualification, for the purposes of s.117A of the Act, is a qualification issued by the Hospitality Standards Institute (HSI). The holders of the Licence Controllers Qualification will have a sound knowledge of the Sale of Liquor Act and Host Responsibility.
- All applications, and renewal applications, for a General Manager's Certificate lodged after 1 April 2006 must be accompanied by evidence of the applicant holding a Licence Controller Qualification.
- All applications for the renewal of a General Manager's Certificates after 1 April 2005 and before 1 April 2006 shall be for a period of two years unless evidence is provided that the applicant holds the Licence Controller Qualification.
- A Transition Test will be available through the Hospitality Standards Institute, or its agents, for current holders of Manager's Certificates who do not hold the Licence Controllers Qualification. Successful completion of the test will gain the applicant the Licence Controller Qualification.

17. Enforcement Procedures

The District Licensing Agency is involved in the enforcement of the Act and works closely with its partners the Police, Public Health Service and other agencies as appropriate. 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 purchase 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 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. The regulatory agencies and the industry should have a clear understanding of their responsibilities and the expectations upon them.

17.1 Enforcement Procedure for "Section 132A" Category Offences

Where the regulatory agencies are satisfied that one of the following offences has been committed they will charge the licensee or manager or other person (not being a licensee or manager) accordingly:

- 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

If the licensee or manager or other person is prosecuted 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 the time 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, Police and Public Health Service to discuss any enforcement issues or infringements of the Act. The meeting will identify solutions or action that should be taken in order to rectify the situation.
- The District Licensing Agency 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 agencies require in order to remedy the situation.
- Copies of documentation of the meeting and any related correspondence are placed on the licensee's 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 include application for a variation, suspension, or cancellation of a licence under Section 132, 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.

17.2 Infringement Notices

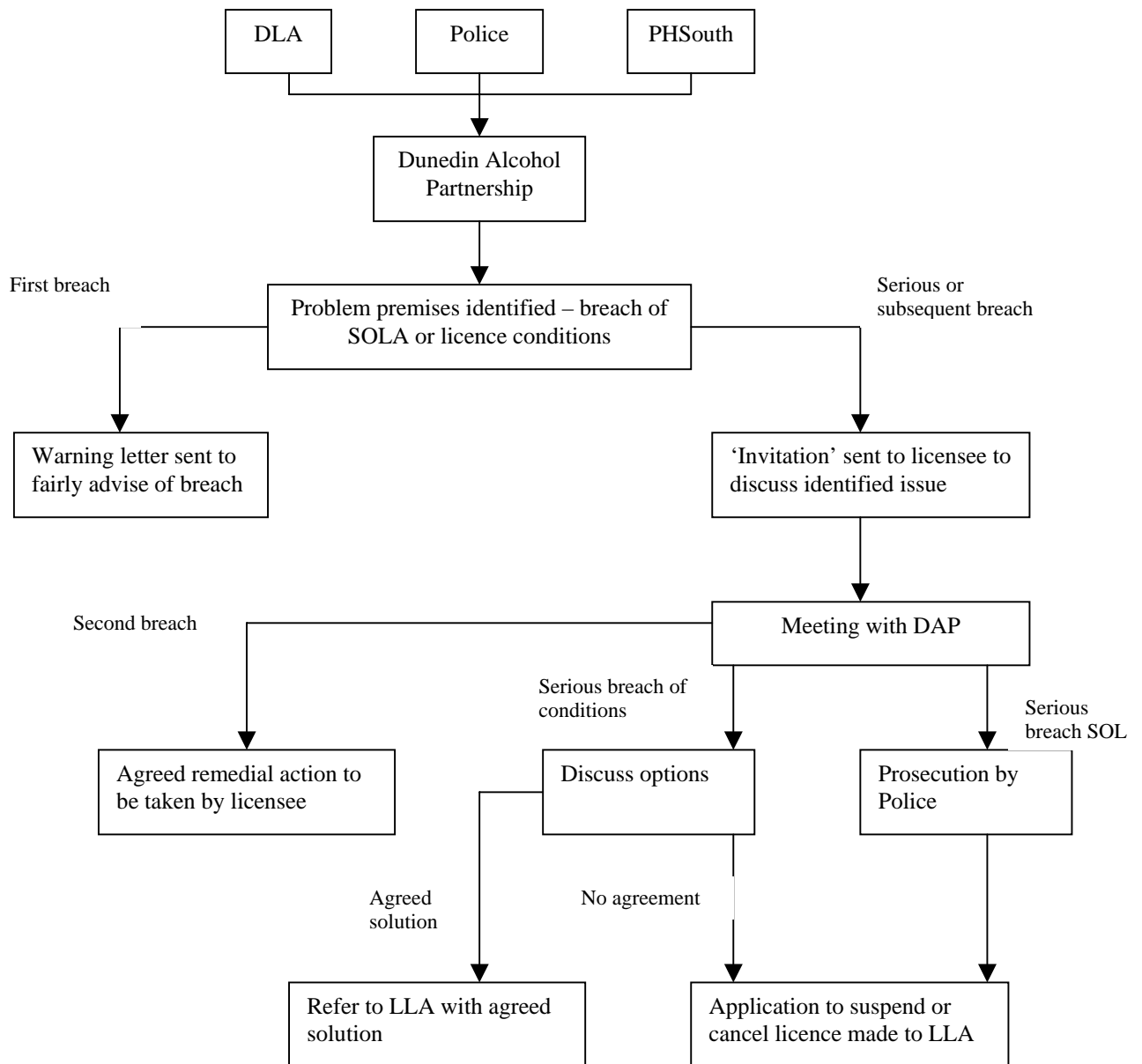
Where the Police have issued infringement notices in respect of minors being on licensed premises illegally or having purchased liquor from a licensed premises the regulatory agencies will give serious consideration to taking enforcement action in accordance with section **17.1** or **17.2** of the policy.

17.3 Anomalies arising from legislative 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 regulatory agencies will endeavour to work towards achieving a satisfactory solution.

17.5 Example of the Enforcement process.

The following is an example of how the enforcement procedures work for infringements or issues other than those specifically mentioned in section 132A.



18. Public Objections to Liquor Licence Applications

Part of the application process for both new and renewal applications is the public notification of the application. The Act clearly outlines who may object and what the grounds for an objection may be.

18.1 Who may object?

Any person who has a greater interest than the public generally may object to a new liquor licence application or renewal. Having a 'greater interest than the public generally' is not defined but would be determined at the time of the objection being lodged.

18.2 Grounds for objection

New Applications:

Where the application relates to any premises or conveyance in respect of which a licence is presently in force and the applicant is seeking the same conditions as those that presently apply, the objection may only relate to the suitability of the applicant.

Where it is a new premises or the applicant seeks different conditions to those presently existing, objections are restricted to:

- Suitability of the applicant
- The days on which and the hours during which the applicant proposes to sell liquor
- Designations proposed for the premises
- Steps proposed by the applicant to prevent sales of liquor to prohibited people
- Applicants proposals for the sale of non-alcoholic refreshments and food, low-alcohol beverages and provision of assistance with or information about alternative transport
- Whether the applicant will be involved with the sale or supply of goods or services not related directly to alcohol

Renewal Applications

Matters that will be considered in a renewal application and may be the subject of an objection:

- Suitability of the applicant
- Conditions attached to the licence
- Manner in which the sale and supply of liquor is being conducted on the premises

18.3 How to object

Every objection shall be in writing and filed with the District Licensing Agency within 10 working days after the first publication of the public notice of the making of the application.

19. Further Information

Further information in respect of liquor licensing can be obtained from the Dunedin City Council District Licensing Agency or Customer Services Agency, the Dunedin Police or the Public Health Service. Information is also available on the following websites:

www.phsouth.co.nz

www.cityofdunedin.com

www.alac.org.nz