

Kapiti Coast District Council

DISTRICT LICENSING AGENCY

SALE OF LIQUOR POLICY 2000

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1. Introduction

1.1 The object of the Sale of Liquor Act 1989 (“The 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 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.”

1.2 The District Licensing Agency (delegated by Council to the Planning and Environment Committee) therefore has a role to play in the reduction of liquor abuse through its responsibilities and obligations under the 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.

1.3 The District Licensing Agency carries out its role in conjunction with the other statutory Agencies (the Police and the Public Health Service) pursuant to the Act. These agencies operate on a partnership basis.

2. Object and content of the policy

The purpose of the Kapiti Coast District Council 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 District and specifies how the District Licensing Agency carries 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 Kapiti Coast District Licensing Agency is proactive in its approach to liquor licensing. This includes working with the liquor industry and carrying out promotional activities and strategies encouraging compliance with the legislation and the creation of safe drinking environments. The agencies believe that 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 or identified groups.

4. The Public Role in the Licensing Process

The Kapiti Coast District Licensing Agency and its regulatory partners (the Police and the Public Health Service) 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. Public feedback on liquor issues (including national and local policies) will be obtained through regular “Attitudes to Alcohol” surveys to be carried out in Kapiti. Data obtained will then be used to ensure the effectiveness of the goals and objectives supporting the strategies. Surveys will take place every two or three years, or more frequently, should the need arise.

Policy 1: Public Participation

The Kapiti District Licensing Agency will continue to encourage public participation and consultation in liquor issues generally by means of promotions and opinion surveys. Particular emphasis will be placed 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 alcohol is part of the New Zealand social fabric and that the liquor trade, the general public and private individuals have a responsibility in respect of maintaining a healthy attitude to alcohol consumption. The Sale of Liquor Act 1989 provides a legislative basis. Initiatives from statutory agencies, stakeholder groups (such as the Alcoholic Liquor Advisory Council (ALAC)) and the industry (groups such as Hospitality Association of New Zealand (HANZ)) 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 Police and the Public Health Service), will continue to carry out strategies promoting a responsible attitude towards the use of alcohol with the public and liquor industry.

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

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

Strategies will encourage moderation and responsibility in the use of alcohol as well as affirming the rights of those who choose not to drink. Strategies will also target the secondary audience – ie 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 respect for the rights of other people. 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 in respect of licensees and licensed premises staff awareness of and compliance with the legislative requirements.

5.4 Staff of the 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 Act, along with other relevant legislation or regulations.

5.5 Communication

Communication is a key tool in the local licensing process. It is therefore essential that all parties involved communicate regularly and work 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 Alcoholic Liquor Advisory Council, National Police Headquarters and Hospitality Association of New Zealand.

Policy 2: Promotion and Communication

The Kapiti Coast District Licensing Agency maintains a continuing public awareness and communication role targeting:

- ◆ **young people and their parents,**
- ◆ **the general public,**
- ◆ **staff of licensed premises and**
- ◆ **other Agencies involved in the licensing process**

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 food and low- and non-alcoholic drink.
- 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. The Kapiti Coast District Licensing Agency requires a written Host Responsibility Policy detailing the premises approaches to the above matters in respect of all licence and renewal applications. This Policy should be further extended into the form of a Host Responsibility Plan, or standard operating procedures which the management and staff will follow to achieve the principles of Host Responsibility outlined above.

Policy 3: Host Responsibility

- All licensed premises are required to have a written *and* operative Host Responsibility Policy, which is to be observed at all times.
- All licensed premises are required to have a written *and* operative Host Responsibility Plan, based on the principles of Host Responsibility, which is to be used as a standard operating procedure by management and staff.
- A copy of the premise's current Host Responsibility Policy and Plan must be submitted to the District Licensing Agency with all On-, Off- and Club Licence 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 excessive extent.

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 4: Alcohol Promotions

- **The Kapiti District Licensing Agency endorses the National Protocol on Alcoholic Promotions and request all licensees to 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 detailed in s.132 and s.135 of the Sale of Liquor Act 1989 will apply.**

8. Evidence of Age Documents

The only Evidence of Age documents recognised pursuant to the Act are a passport, New Zealand photo driver's licence and a "Hospitality Association of New Zealand 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, New Zealand photo driver's licence or "Hospitality Association of New Zealand 18+" card for age verification.

Policy 5: Evidence of Age Documents

That all licensees should require Evidence of Age documents (passport, New Zealand photo driver's licence or Hospitality Association of New Zealand "18+ card") for age verification purposes. The Kapiti District Licensing Agency will take all practicable steps to ensure and encourage the use of Evidence of Age documents.

9. Sale of Liquor in non-Glass Containers.

Glass bottles discarded in public places can cause a significant hazard. The District Licensing Agency 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 hazardous litter. All Off-licensed premises in Kapiti are requested to sell only liquor packaged in non-glass containers where practicable after 10.00 pm.

The purpose of this policy is to reduce the amount of glass discarded around the District at night.

Policy 6: Non-Glass Containers

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

10. Breweries and Wineries

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

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

Policy 7: Breweries and Wineries

- **The District Licensing Agency will encourage breweries and wineries operating in Kapiti to carry out all promotions or sponsorship activities in a responsible and balanced manner.**
- **The District Licensing Agency will encourage participation from breweries and wineries in projects and strategies targeting moderation and responsibility with liquor.**

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 Functions of the District Licensing Agency include:

- Determining unopposed applications for On-, Off- and Club Licences, and managers' certificates and renewals.
- Determining temporary authority applications (On- and Off- licences).
- Varying conditions of On-, Off- and Club Licences (if conditions are imposed by the District Licensing Agency).
- 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 for licences and Manager' Certificates and renewals to the District Licensing Agency or Liquor Licensing Authority.
- Monitoring licensed premises' compliance within the requirements of the Act and reporting to the District Licensing Agency or Liquor Licensing Authority.
- Power of entry to any licensed premises 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 Liquor Licensing Authority for the variation, suspension or cancellation of a licence.

11.3 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.
- Determining appeals arising from decisions of District Licensing Agencies.
- Giving direction on sale of liquor matters to District Licensing Agencies.
- 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 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 Kapiti Coast District Licensing Agency. 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 all available information.

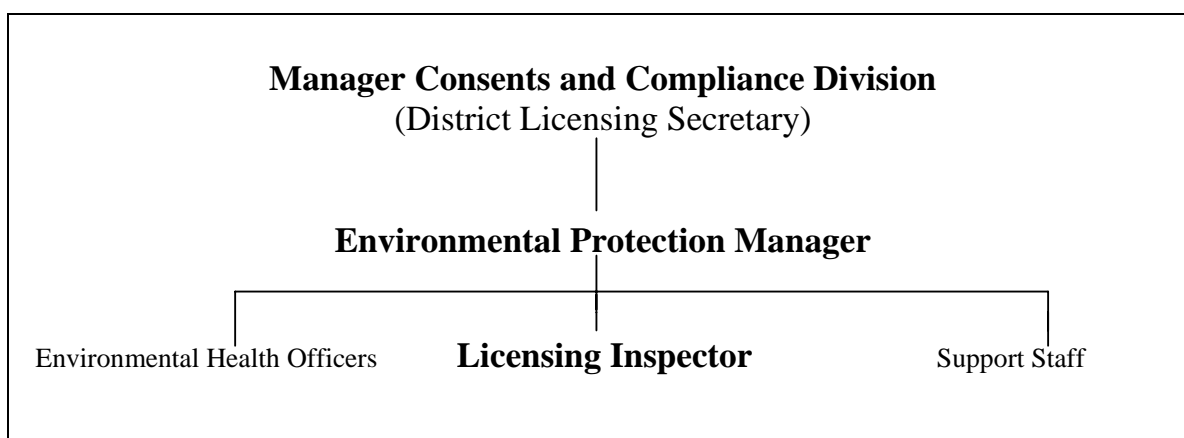
The District Licensing Agency is responsible for the functions detailed above (11.1). This section of the Policy details how the District Licensing Agency will carry out those functions in a transparent and accountable manner. Where appropriate some powers and duties of the District Licensing Agency have been delegated to staff in accordance with s.104 of the Act.

11.5 The Political Function

The District Licensing Agency will operate in accordance with this Policy adopted by the Kapiti Coast District Council. The Kapiti Coast District Planning and Environment Committee will act as the District Licensing Agency Committee and will meet on an “as-required” basis to deal with matters relating to the sale of liquor. 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 Environmental Protection Department of the Consents and Compliance Division of Kapiti Coast District Council. Both inspectorial and administrative roles are undertaken by the Licensing Inspector. The diagram below indicates the relevant staff structure:



11.7 The Licensing Inspector's Role

The Licensing Inspector undertakes the required administrative role:

- ◆ receives all liquor licence and certificate applications,
- ◆ checks for completeness and accuracy and
- ◆ refers applications to the 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.

The Inspector also:

- ◆ reports on all applications for licences, managers' certificates and renewals
- ◆ co-ordinates the licensing activities and
- ◆ ensures that relevant applications are submitted to the District Licensing Agency committee or the Liquor Licensing Authority where appropriate.
- ◆ inspects licensed premises on a regular basis, during busy periods of operation, to ensure compliance with regulations and to meet managers and staff to discuss all aspects of liquor licensing and associated regulations.

Completed applications are forwarded to the Environmental Protection Manager.

11.8 The Environmental Protection Manager's Role

The Environmental Protection Manager acts as the Liquor Licensing Co-ordinator and is responsible for:

- ◆ the monitoring of developments in relevant legislation
- ◆ checking of all completed applications 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.

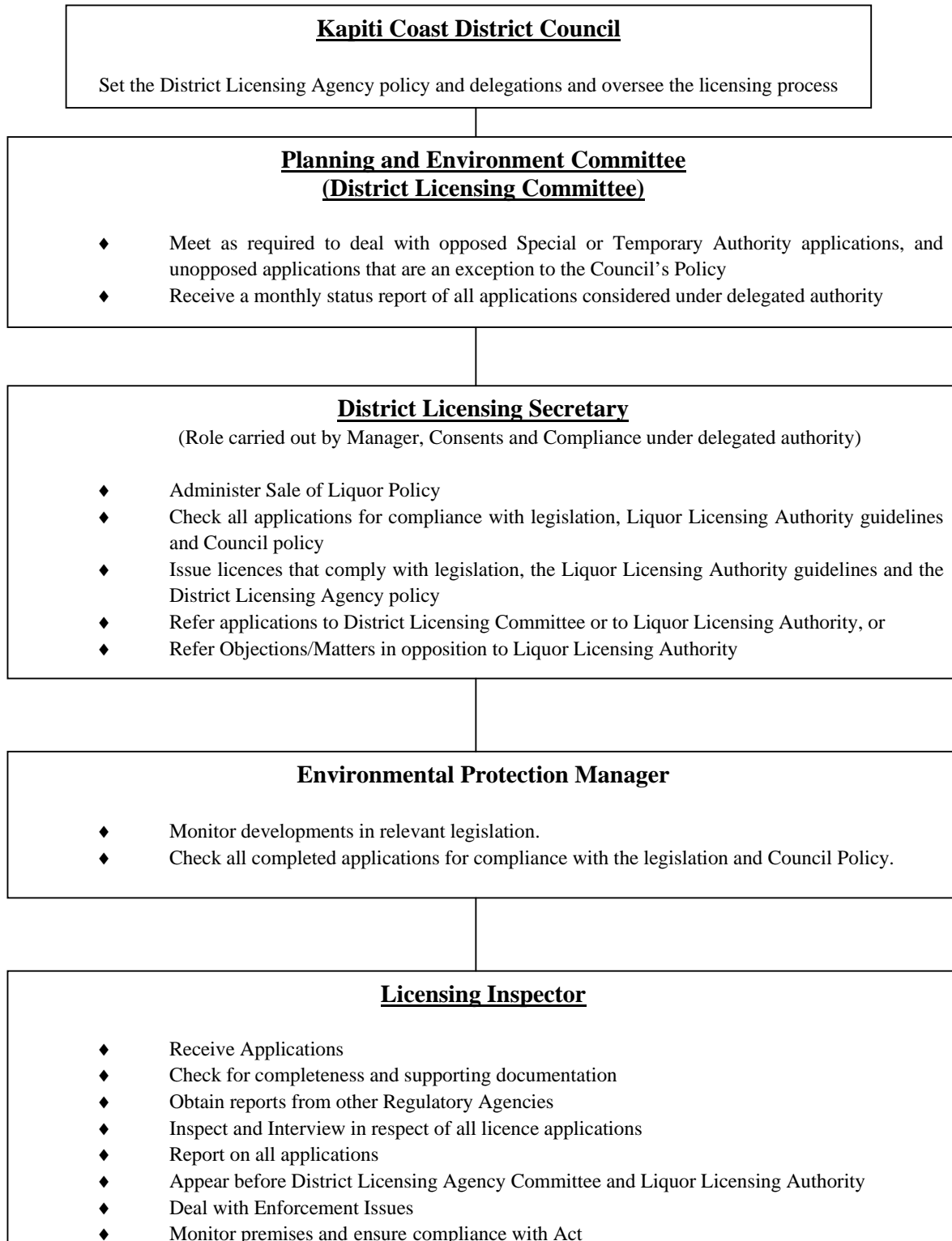
11.9 The District Licensing Agency Secretarial Role

The Manager, Consents and Compliance, is the Secretary of the Kapiti District Licensing Agency. The duties of the Secretary are carried out under delegated authority from Council. If the application does not comply with the Policy it is referred to the District Licensing Committee for consideration.

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.

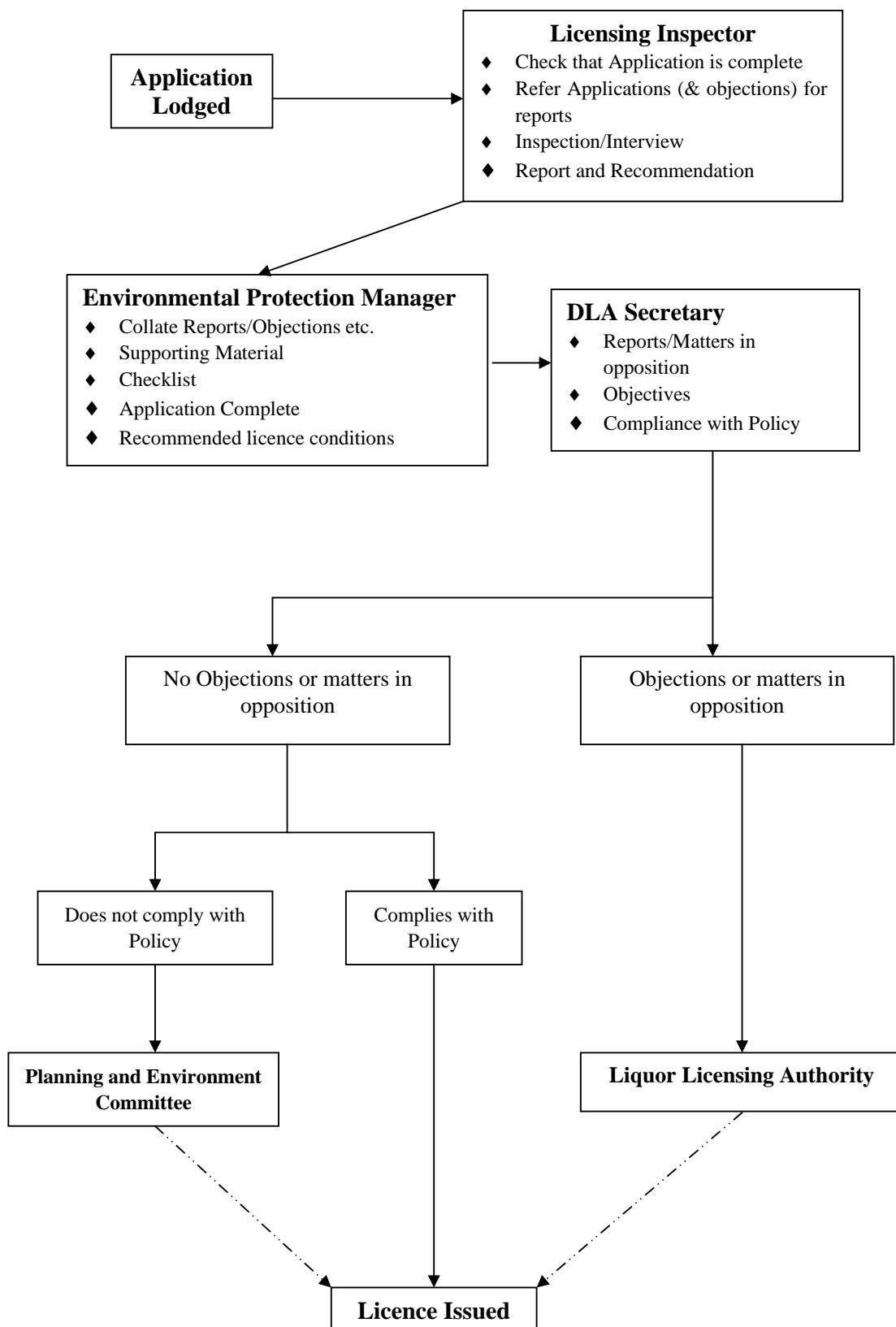
11.10 District Licensing Agency Roles in the Licensing Process

The following Chart shows the relationships of the various District Licensing Agency roles:



11.11 Flow Chart - The District Licensing Agency Role in the Licence Application Process

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



12. Reporting Criteria for Licensing Inspector

The Licensing Inspector's report in respect of On-, Off-, Club Licence applications and renewals 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/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.

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.

13 On-Licences

This section details the criteria relevant to the granting of an On-Licence.

13.1 Hours of Operation in (or adjacent to) a Residential Area

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 1991 before it is lodged; sometimes, however, 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 (eg the Police or the Licensing Inspector).

Policy 8a: On-Licences.

Hours of Operation in Residential Areas

Sunday to Friday	7.00 am to 11.00 pm.
Saturday	7.00 am to 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.

13.2 Hours of operation in Non Residential Areas

While problems may be encountered with all types of licensed premises from time to time, generally problems experienced relate more to the management of the premises rather than the hours during which they are licensed to operate.

Managers of premises operating on a late closing-hour basis need to ensure that they can adequately provide supervision to ensure that problems often associated with a late night licensed premises do not occur or are kept to an absolute minimum. Where problems are encountered with the operation of late licensed premises, or indeed any premises, the Licensing Inspector, Police or Medical Officer of Health may request the District Licensing Agency or Liquor Licensing Authority to reduce the licensed hours or take other enforcement action.

Policy 8b: On-Licences. **Hours of Operation in Non-Residential Areas**

Monday to Sunday

7.00 am to 2.30 am

These hours are intended as a guideline only and may be modified by the District Licensing Agency, taking into consideration every individual situation and/or any issues raised by the reports submitted by the Licensing Inspector, Police or Medical Officer of Health, and the general policies of the Liquor Licensing Authority.

Note:

The terms "residential" and "non-residential" as used 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.

13.3 Duration of On-Licences

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

13.4 On-Licence Renewal

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 Inspector's 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 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. 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

13.5 Host Responsibility

The Host Responsibility Policy for an On-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 (eg the availability and promotion of low alcohol beers, non-alcoholic drinks, provision of food and the display of appropriate cautionary measures).

14 Off Licences

This section details the criteria relevant to the granting of an Off-Licence.

14.1 Hours of Operation of an Off-Licence in or adjacent to a Residential Area

The hours of operation of an Off-Licence are set by the Liquor Licensing Authority or District Licensing Agency after consideration of the reports from the Licensing Inspector and Police and any objections. An application for an Off-Licence must comply with the Resource Management Act 1991 before it is lodged; sometimes, however, 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. This may be related to public concern (ie objections) or concern from the Police, Public Health Service or Licensing Inspector.

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 1991 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 9a: Off-Licences.

Hours of Operation: Residential Areas

Sunday to Friday:	9.00 am - 11.00 pm.
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.

14.2 Hours of Operation of an Off-Licence in Non-Residential Areas

A number of On-Licence premises also have Off-Licences which allow for the sale of take-away liquor from a bottle store between certain hours (often 9.00am and 11.00pm) and over the bar at other times. There is no restriction in the Act to a stand-alone Off-Licence operating similar hours (ie 24 hours a day). However, as with an On-Licence, the applicant would need to justify and adequately manage such an undertaking.

Management of premises operating on a late basis need to ensure that they can adequately provide supervision to ensure that problems often associated with a late night licensed premises do not occur or are kept to an absolute minimum. Where problems are encountered with the operation of late-licensed premises, or indeed any premises, the Licensing Inspector, or Police may request the District Licensing Agency or Liquor Licensing Authority to reduce the licensed hours or take other enforcement action.

Policy 9b: Off-Licences.

Hours of Operation: Non-Residential Areas.

Monday to Sunday

7.00 am to 12 midnight.

These hours are intended as a guideline only and may be modified by the District Licensing Agency, taking into consideration every individual situation and/or any issues raised by the reports submitted by the Licensing Inspector, Police or Medical Officer of Health, and the general policies of the Liquor Licensing Authority.

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, 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.

14.3 Duration of Off-Licences

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 that their licence is due for renewal. It is however the responsibility of the licensee to ensure that the renewal application is lodged on time.

14.4 Off-Licence Renewal

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 Inspector's Report.

Matters considered will include, but need not be restricted to, those listed under 13.4.

14.5 Off-Licences in Supermarkets and Grocery Stores

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.

14.6 Host Responsibility: Off-Licences

Off-Licence 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-, Off- or Club Licence, the District Licensing Agency believe that Off-Licence premises should have their own Host Responsibility Policy appropriate to their 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 (eg the availability and promotion of low alcohol beers, non-alcoholic drinks and the display of appropriate cautionary measures).

15. Club Licences

This section details the criteria relevant to the granting of a Club Licence.

15.1 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 1991 before it is lodged; sometimes, however, 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. This may be related to public concern (ie objections) or concern from the Police, Public Health Service or Licensing Inspector.

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..

Policy 10: Club Licences

Hours of Operation

That in general the hours of operation for Club Licence premises must fall within the following parameters:

Sunday to Friday: 8.00am – 12 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 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.

15.2 Duration of a Club Licence

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 that their licence is due for renewal. It is however the responsibility of the club to ensure that the renewal application is lodged on time.

15.3 Club Licence Renewal

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 Inspector's Report.

Matters considered will include, but not be restricted to, those listed under 13.4.

16. Special Licences

16.1 What is a Special Licence?

A Special Licence can be issued pursuant to either s.73 or s.74 of the Act. A Special Licence issued under s.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, event or series of occasions or events described in the licence.

A Special Licence issued under s.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.

16.2 “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 (whilst noting that wine and beer festivals are possible exceptions to this requirement). 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 each Special Licence applications should be considered on its individual merits.

Policy 11a: Special Licences

Occasions and Events

- **An occasion or an event can be any identifiable event and should be outside the usual or regular activities of On-, Off-, or Club licensed premises (as defined in s.73 of the Sale of Liquor Act 1989).**
- **A series of occasions or events is defined as a series of related events or activities which has specified beginning and end points (as defined in s.74 of the Sale of Liquor Act 1989).**
- **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.**

16.3 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.

16.4 Special Licence Application Procedure

The procedure for applying for a Special Licence is as follows:

- 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) 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 to resolve any matters in opposition before the application proceeds to a public hearing.

16.5 Reporting Criteria for the Licensing Inspector (for Special Licences).

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
- 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.

16.6 Hours for Special Licences

The Kapiti District Licensing Agency has a policy imposing general restrictions on the hours of operation for Special Licence events. 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. Such issues may be raised by the Licensing Inspector, Police or other relevant effected parties.

Policy 11b: Special Licences **Hours of Operation**

That in general the hours of operation for Special Licences must fall within the following parameters:

Sunday:	6.00am to 10.00pm
Mondays to Thursdays:	6.00am to 11.00pm
Fridays, Saturdays and Public Holidays:	6.00am to 12.00 midnight

These are not standard hours and the Licensing Inspector or District Licensing Agency will consider each particular application on its merits. For example a Special Licence issued for premises situated in or adjacent to a residential area may be required to have an earlier closure than the times indicated above.

16.7 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.

16.8 Certified Manager in Attendance

The Kapiti 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.

17 Managers' Certificates

This section details the criteria relevant to the granting of a Managers' Certificates.

17.1 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 District Licensing Agency or Liquor Licensing Authority 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 reports from the Inspector and the Police
- For club manager's applications the District Licensing Agency 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 12a: Managers' Certificates Applications

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**
- **The applicant has submitted proof of having obtained any prescribed qualifications**

17.2 Managers' Certificate Renewals

Applications for renewal of Managers' 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 12b: Managers' Certificate Renewals.

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 submitted proof of having obtained any prescribed qualifications**

17.3 Prescribed Qualifications

In order for an individual to hold a General Manager's Certificate after 1 December 2002 the individual must submit evidence of holding a prescribed qualification. A prescribed qualification is a qualification or requirement listed at a particular time in the Sale of Liquor Regulations or advised by the Liquor Licensing Authority. This requirement affects the holders of General Managers' Certificates as follows:

- ◆ All applications for a General Manager's Certificate lodged after 1 December 2002 must be accompanied by evidence that the applicant holds a prescribed qualification.
- ◆ All applications for three yearly renewals of General Managers' Certificates extending beyond 1 December 2002 must also submit evidence that the applicant holds the prescribed qualification (following the publication of prescribed standards).
- ◆ If such evidence is not provided the District Licensing Agency will only renew a General Manager's Certificate to 30 November 2002.
- ◆ For a Club Manager's or General Manager's Certificate application, in the period up to 30 November 2002, the District Licensing Agency will only issue certificates where the applicant has submitted evidence of having completed a course approved by the District Licensing Agency or in accordance with advice issued from the Liquor Licensing Authority.

18 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. The regulatory agencies and the industry should have a clear understanding of their responsibilities and the expectations upon them.

18.1 Enforcement Procedure for offences against Section 132A of the Sale of Liquor Act 1989

18.1.1 Where the enforcement agencies are satisfied that one of the following offences:

- 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

has been committed they will charge the licensee or manager or other person (not being a licensee or manager) accordingly.

18.1.2 If the licensee, manager or other person is convicted 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.

18.2 Enforcement Procedure for other offences under the Sale of Liquor Act 1989

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

Policy 13: Enforcement Procedures

- **The licensee will be requested to meet with representatives of the District Licensing Agency 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.**
- **A Sale of Liquor Advisor from the Regional Public Health Office will be advised of the proposed meeting and invited to attend.**
- **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 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- 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 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.

18.3 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 serious consideration to taking enforcement action in accordance with section 18.1 or 18.2 of this Policy.

18.4 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.

18.5 Example of the Enforcement process.

The following chart is an example of how the enforcement procedures work for infringements or issues other than those specifically mentioned in s.132 of the Sale of Liquor Act 1989.

