



# Alcohol licensing in your community

## How you can get involved



## About this toolkit

This toolkit is designed to help anyone who would like to have a say on how alcohol impacts on their community.

It explains how the licensing process works in Scotland, and provides some practical tips to help people who want to get involved.

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Introduction to alcohol licensing.

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# Using this toolkit:

To find out which section of the toolkit is relevant to you, use the chart below:



## Introduction to alcohol licensing

### Why is alcohol licensed?

- Alcohol is not an ordinary product, it is a legal drug that causes a range of harms.
- Alcohol plays a part in many health and social problems - not just to the drinker but also to those around them, including families, neighbours and the wider community.
- Evidence shows that the easier it is to buy alcohol, the more people will drink.
- That is why controls are needed on how, where and when alcohol is sold.

### What is licensed and why?

- Places (for example supermarkets, convenience stores, pubs, restaurants) that sell or serve alcohol must be licensed. These are either permanent licences (premises licences) or temporary licences for specific events (occasional licences).
- People (for example managers or supervisors in licensed premises) that manage the sale of alcohol must have a personal licence.

### What are the licensing objectives?

- There are five licensing objectives, set out in law, that underpin the licensing system in Scotland. These are:
  - Preventing crime and disorder
  - Securing public safety
  - Preventing public nuisance
  - Protecting and improving public health
  - Protecting children from harm

## Who decides who can sell alcohol?

- The local licensing board decides who can sell alcohol, and where and when it can be sold. There are 40 licensing boards across Scotland. Only elected councillors can be members of a licensing board.

## Who else is involved?

Other people who get involved in licensing include:

- Licensing Standards Officers (LSOs)
- Police
- Health board
- Community councils
- Local licensing forum
- Members of the community

## What can I do?

There are a number of things you can do if you have concerns about alcohol in your community.

See “Raising concerns about alcohol in your community” on [page 4](#).

Other sections you may find useful:

**SECTION 2** **Page 4**  
Raising concerns about alcohol in your community.

**SECTION 3** **Page 8**  
Raising concerns about an existing alcohol licence.

**SECTION 4** **Page 9**  
Commenting on an alcohol licence application.

**SECTION 5** **Page 14**  
Attending a licensing board hearing.

# Raising concerns about alcohol in your community

There are a number of ways you can have a say on the impact of alcohol in your local community.

## Get in touch with your local councillors

If you have concerns, for example about alcohol-fuelled noisy house parties or litter or vandalism, then speak to your local councillors. They may be on the licensing board, or can speak to other councillors who are. They can also report the problems in your community to the appropriate departments in the council.

You will be able to get the contact details for your local councillor from the council.

### TOP TIP

**If your neighbours also have concerns, suggest they contact their local councillors too. It will be important for councillors to know the scale of concern about problems in the community.**

### TOP TIP

**If a councillor is a member of the licensing board they are unlikely to be able to talk to you about specific licence applications. However there may be other councillors for that local area that you could speak to.**

## Report any problems with a licensed premises to the police and Licensing Standards Officer

If you are concerned about the way a licensed premises is running, the police and Licensing Standards Officer (LSO) may be able to take action to sort out these problems. If things don't get better, you can ask the licensing board to review the licence.

The LSO works for the local council and you will be find their contact details on the council's website or by phoning them.

For more information on action that can be taken if you have concerns about a particular business, see "Raising concerns about an existing alcohol licence" on [page 8](#).

## Comment on alcohol licence applications

When a business is applying for a new alcohol licence, a change to an existing licence, or for an occasional licence, any person has the opportunity to object to this application. You don't have to live nearby to raise concerns about the application.

For more information on objecting to alcohol licence applications, see "Commenting on an alcohol licence application" on [page 9](#) and Top Tips on [page 11](#).

### TOP TIP

An application can only be refused on specific grounds. Your comments should therefore relate to these grounds for objection. The most common grounds for objection are:

- inconsistency with the licensing objectives
- the premises being unsuitable for the sale of alcohol; and
- there being too many premises in that area (overprovision).

## Input to the planning process

New licensed premises that are being built, or that are converting a building that was used for a different purpose, will normally have to apply for planning permission. This will usually happen before it applies for its alcohol licence.

If you have concerns about such a new business opening, you could submit an objection to its planning application.

Your council's website should have information on new planning applications and how to object.

## Contact your local community council

Many areas have a local community council, which represents the views of residents in that community. Community councils must be consulted if a business wants to start selling alcohol, and representatives are sometimes involved in the local licensing forum. Community councils often get involved in other local decisions such as planning or development of local government policies. You might want to highlight your concerns to the community council, or even become a member.

You can find out if your area has a local community council by going to [www.communitycouncils.org.uk](http://www.communitycouncils.org.uk)

## Get involved with the local licensing forum

In every licensing board area there is a local licensing forum. The forum monitors licensing in the local area and can offer advice and recommendations to the licensing board. The licensing forum is made up of different people with an interest in licensing, including community members.

You can take concerns about alcohol in your area to the local licensing forum. The forum cannot comment on individual licensed premises, but they can highlight to the board community issues or concerns, such as the number of licensed premises in the area.

### TOP TIP

Anyone can attend a forum meeting, but check in advance what the rules are for members of the public speaking or raising issues at the meeting.

### TOP TIP

Find out if there is a community representative on your local forum that you can contact to express opinions on your behalf.

### TOP TIP

If you have a particular interest in licensing issues you can apply to join the licensing forum. Forum members are appointed by the local council.

### TOP TIP

Contact your local licensing forum through the council's website or via the LSO.

## Respond to alcohol licensing consultations

Each local licensing board has to develop a statement of licensing policy. This policy sets out how the licensing board will carry out its work including how it will promote the five licensing objectives, how it will make decisions and also if the board thinks there are enough, or too many, licensed premises in any areas.

Currently all licensing boards must update their statement of licensing policy every three years. Under new legislation they will be required to produce these policies every 5 years, within 18 months of local government elections.

A licensing board must consult various groups when it is developing its policy, including the local licensing forum and the local health board. Some will send it to community councils or organisations representing the interests of the licensed trade.

Most licensing boards also put the consultation on the council's website and anyone can respond. Most consultations will begin around six to nine months before the statement is due to be produced.

### TOP TIP

You can contact your local licensing board to find out when it will be updating its policy and how you can give your views.

### TOP TIP

If you are contributing your opinion it can help to speak to your neighbours - the feelings of a large group of people often carry more weight in policy consultations.

### TOP TIP

It helps if contributions reflect the views of the wider community. Think about how you could gather the views of people living in your local area, such as surveys or public meetings. Alternatively, other local groups such as community councils might be gathering evidence and you might be able to take part in their work.

### TOP TIP

Try to include evidence to support your opinions, such as times you've reported noise disturbances to the police or environmental health noise teams. Reporting such problems also means that these incidents will be included in official statistics.

Other sections you may find useful:

**SECTION 3 Page 8**  
Raising concerns about an existing alcohol licence.

**SECTION 4 Page 9**  
Commenting on an alcohol licence application.

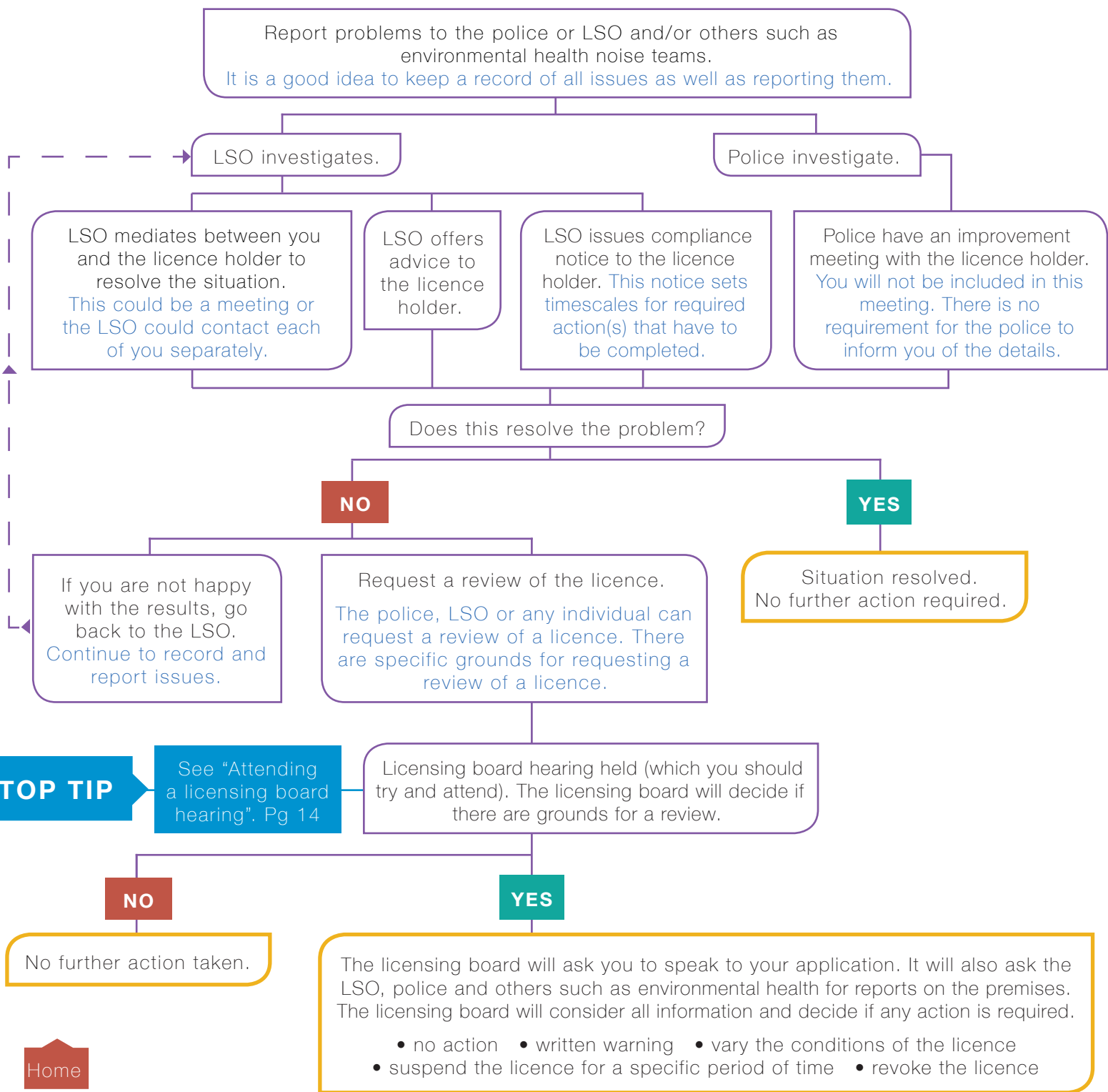
**SECTION 5 Page 14**  
Attending a licensing board hearing.

**SECTION 6 Page 16**  
Alcohol licensing explained.



# Raising concerns about an existing alcohol licence

If you are concerned about how a place that sells alcohol is operating, there are processes you can use to address this (see below). The police or LSO may be able to resolve any problems or the licensing board can review the licence. The licensing board is unlikely to uphold a licence review unless the police or LSO also have concerns so you should contact them as a first step.

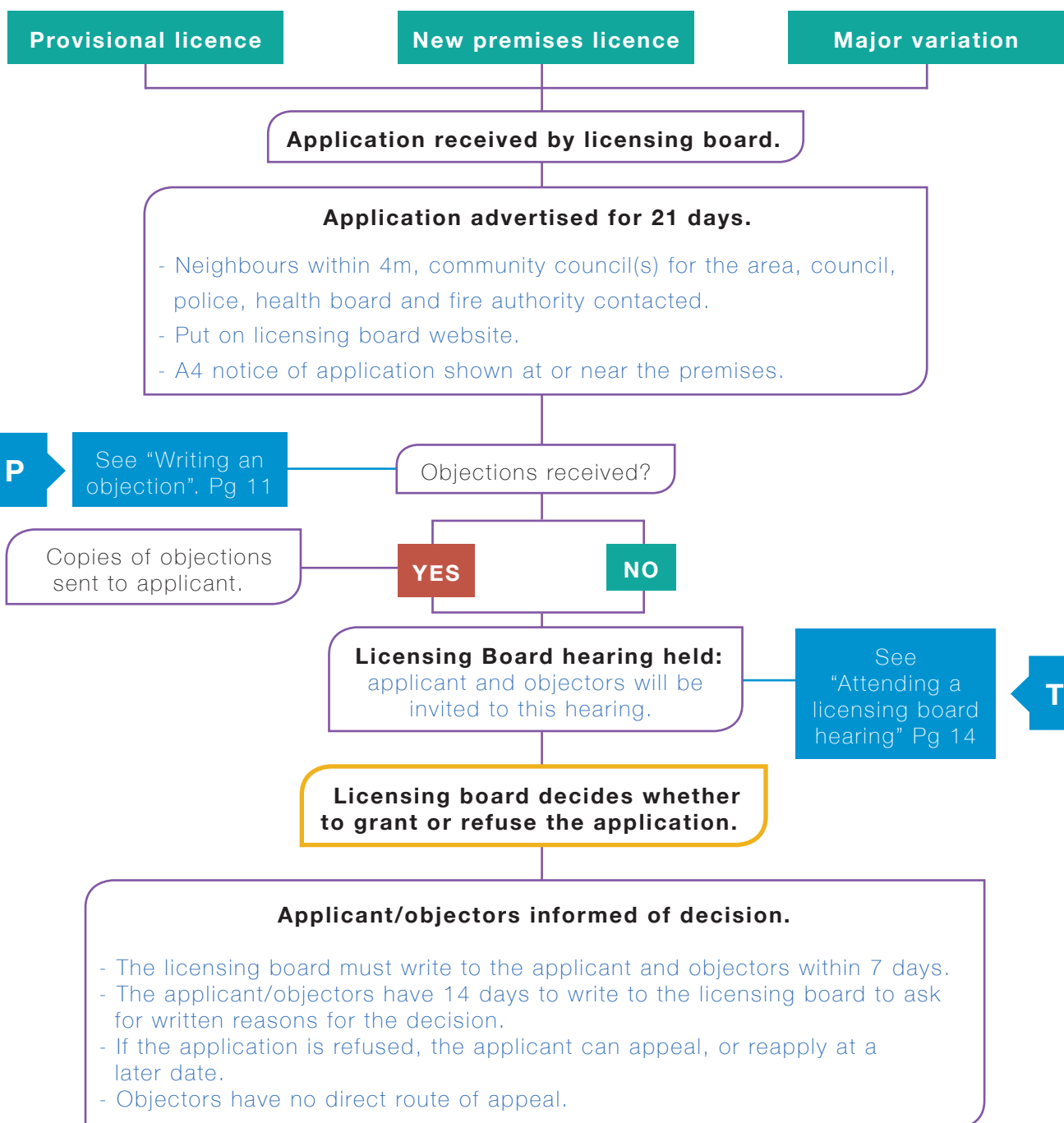


**TOP TIP** See "Attending a licensing board hearing". Pg 14

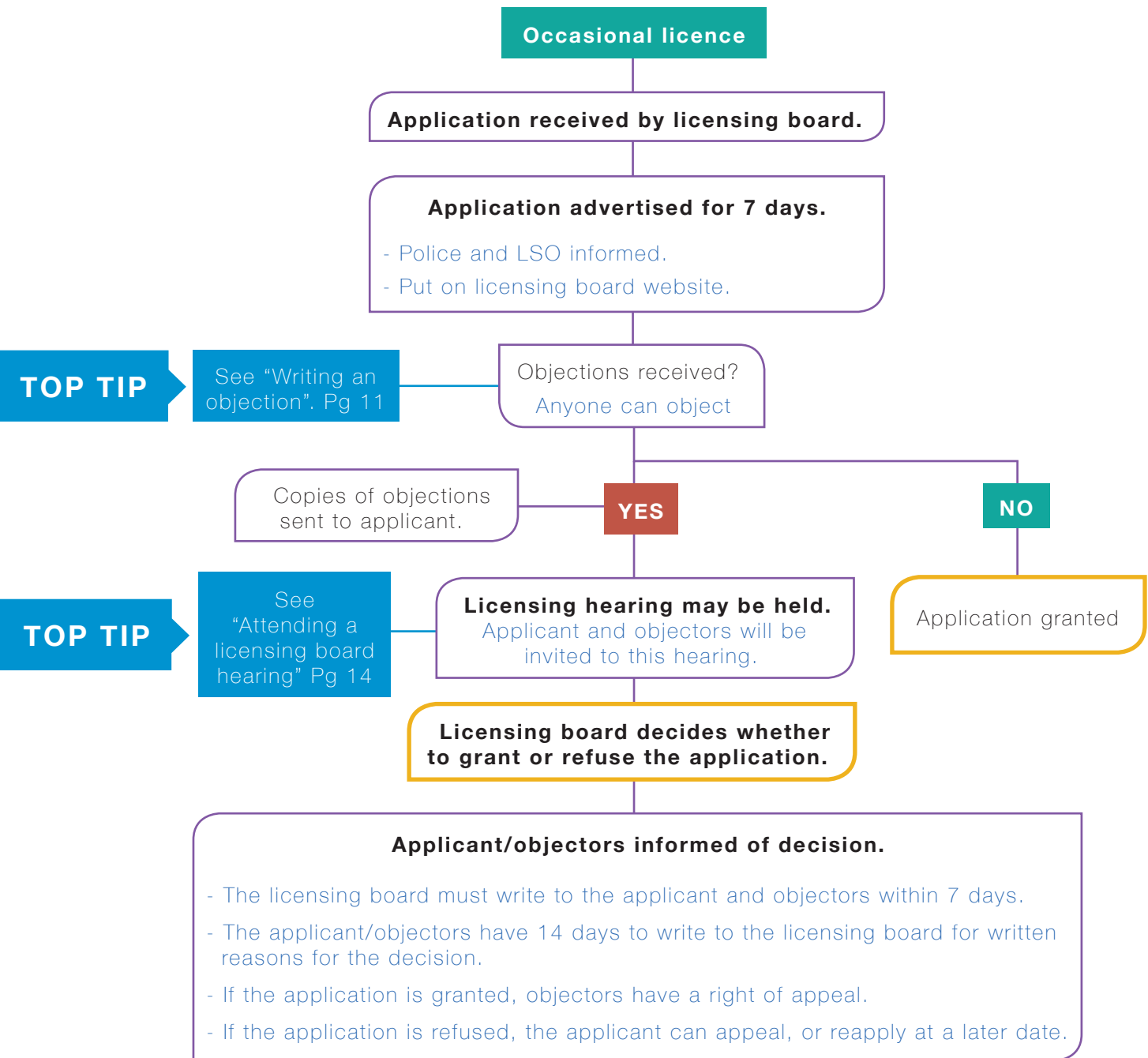
# Commenting on an alcohol licence application

Licensing boards have to follow strict procedures when considering alcohol licence applications. These procedures are different depending on the type of licence application.

The applications that people will most commonly encounter are for provisional licences, new premises licences or major variations of existing licences. The process for these applications is set out below:



There are also opportunities for communities to comment on occasional licence applications. The application procedure is slightly different, with a more limited opportunity for the public to be notified and comment.



Other sections you may find useful:

SECTION 5 **Page 14**  
Attending a licensing board hearing.

SECTION 6 **Page 16**  
Licensing explained

## Writing an objection

Here are some practical tips for commenting on alcohol licence applications. These tips might also be helpful if you are requesting a review of a licence.



### **Look at your licensing board's statement of licensing policy.**

This policy sets out what the licensing board is likely to allow premises to do and what standards they expect. It will also show any areas of concern - such as overprovision - the licensing board has. It can be helpful to refer to what the policy says in your objection / representation.



### **Look at the layout plan and operating plan for the application.**

These plans detail how the premises will be laid out and how it will be run. You will need to contact the licensing board to get copies of these. Some licensing boards will only let you see the plans at their offices. Others may allow you to take copies or might email them to you.



### **Look at useful sources of information.**

The licensing board has a register of all licensed premises in its area and you may be able to access this online or by going to the licensing office. You can also access information about local areas by looking at [www.cresh.org.uk/webmap](http://www.cresh.org.uk/webmap).



### **Refer to the grounds for objecting in your submission.**

A licence can only be refused, or conditions attached, on specific grounds. It is important that your comments make clear:

- on what ground you are objecting/making a representation;
- how the grounds apply to the specific application/premises.

If you are objecting on more than one ground, then address these separately.



### **Check how you should submit your objection.**

Objections must be in writing. Some licensing boards may accept objections by email but you should check this with them. Some licensing boards have a form for objectors to use to help them stick to the relevant grounds for objection. This will usually be on the licensing board's website, so look there or phone and ask whether there is a form for you to use.



### **Be specific with your comments.**

Try and focus your comments on how the application impacts on you, or how the premises impacts on the grounds for objections. Try and avoid making general statements in case they are considered to be irrelevant to the application.

## Writing an objection (continued)



### **Provide any evidence you have.**

If you have evidence to support the points you are making, for example records of phone calls to the police or LSO, you should give details to the licensing board. Evidence will have more weight than speculation. If you report incidents to the police you should ask for an incident number and include this in your objection.



### **Submit the objection in the name of an individual.**

The law states that “any person” may object. To avoid any problems, if you are submitting comments on behalf of an organisation such as a community council, it is better for any letter to be signed by an individual. However, you should make clear that the comments represent the views of the organisation. It is also possible for individual members of an organisation to submit their own comments.



### **Make sure you submit your comments on time.**

The notice of the application will give the deadline for submitting comments to the licensing board. It is important that you send your comments to the licensing board by this date, because late objections may not be taken into account. If you miss the deadline, include reasons why this has happened. Depending on the reason, the licensing board might consider your comments.



### **Include photos if they would add to your point.**

Not all licensing board members will know your particular area. Photographs can help to make your point. (Applicants will bring photographs and other information to a licensing board hearing to illustrate what they are aiming to offer.)



### **Ask the Licensing Standards Officer (LSO) for advice.**

Part of the LSO’s job is to give advice. They can give general guidance about what you need to do to object or make a representation, and explain what happens at the licensing board hearing. Your local council will be able to give you information about how to contact the LSO.



### **Would you support the application if changes were made to it?**

In your written comments you can make suggestions for changes you would like the applicant to make to address your concerns. This gives them the opportunity to consider your ideas in advance of the hearing. Commonly suggested changes are things like a smaller alcohol display area, shorter licensed hours, CCTV to be installed, or restrictions on noise levels.

## Writing an objection: Things to watch out for



The licensing board cannot consider any information about the application that doesn't relate to alcohol licensing (for example traffic, planning.)

- Stick to alcohol licensing.
- Make sure you clearly state which ground for objection you are using.



In an application to change how a business is run, the licensing board does not have the ability to remove the licence, only to agree or refuse the proposed licence variation.

- Your objections must be about the changes proposed in the application.



Some licensing boards may treat identical/similar letters as one objection rather than different objections.

- It would be better for each person to write their own letter of objection, and these should try to avoid being too similar.
- If you object regularly to applications, tailor each objection to the specific application/premises rather than sending in the same letter.



Petitions opposing licences are often not accepted by the licensing board because of basic mistakes. Some common problems with petitions are names not being readable, names or signatures looking like they were written by the same person, problems with the wording of the petition, and it not being clear whether people have meant to sign to each of the relevant points.

- Make sure that all signatories can see exactly what points they are agreeing to - for example, list the points on each page.
- Avoid multiple points in a phrase, for example "it would be a public nuisance and affect vulnerable people." List the points separately and ask people to tick which ones they agree with.
- Ensure each person only puts their own name and that they sign it.



Objections from members of the licensed trade can be given less weight because they are seen as protecting their own business.

- The licensing board has the discretion to attach whatever importance they think appropriate to each piece of information before them.



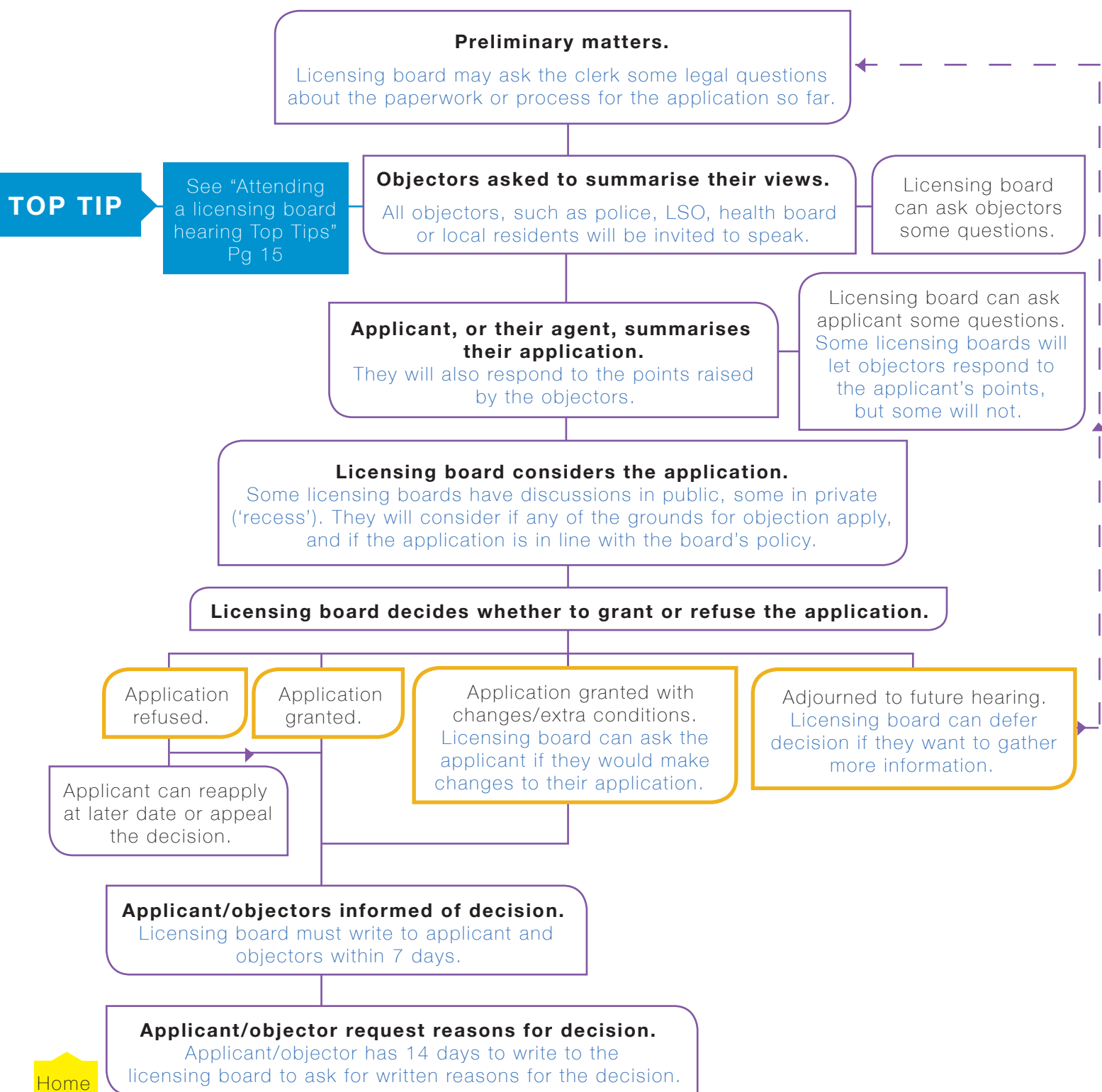
The onus is on objectors to say why the licence should be refused, rather than on applicants to provide evidence for why their application should be granted.

- Think about what the applicant might say about their application. Raise your concerns about the applicant's likely arguments as questions in your submission.
- If you have evidence to back up your concerns - for example from a similar situation somewhere else - then include this in your written objection.

# Attending a licensing board hearing

If you have put in an objection or made representations on an application, the licensing board will invite you to attend the hearing where they will be considering the application.

The diagram below shows the process the hearing is likely to follow. A similar process will be followed in licence review hearings.



## Attending a licensing board hearing



### **Check the website in advance for the agenda.**

Some licensing boards make the papers available up to one week in advance of the hearing. (Many do not, but if you ask a member of council staff on the day, they should be able to give you a copy.) It is difficult to say how long each case will take or when yours will be heard but the agenda will give you an idea of the running order for the hearing.



### **Try and see a licensing board hearing in advance.**

It might help to go along to a licensing board hearing before the one you'll be speaking at. This will let you see the layout of the room, and how the hearings are run.



### **Give another person written authorisation to speak on your behalf if you can't attend.**

If you go to the hearing, licensing boards usually welcome the chance to ask you some questions about your written comments. If you don't go to the hearing, they may give less weight to your objections.

If you are unable to make the hearing, ask someone else to attend on your behalf. You must give them written permission to speak for you, and they should show this to the clerk.



### **Know what you want to say and prepare.**

It is helpful to think about what you want to say - bring notes. At the hearing, you might only get one chance to speak. You may not be given the opportunity to respond to comments made by the applicant, or to raise any new points.

- Try and address your points the first time you are invited to speak.
- If there are points you want to raise outwith the grounds for objection, word them as questions.
- Try and avoid repeating yourself.



### **Ask for any 'promises' made by the applicant to be added as conditions of the licence.**

Applicants often give assurances to the licensing board that they will or will not do certain things, for example that all staff will be trained to personal licence holder level. To make sure this happens you could ask the licensing board to include the applicant's commitments as conditions of the licence.



### **If you are having problems hearing, let council staff know.**

If you are struggling to hear the discussions, let a member of council staff at the hearing know. They might be able to tell you where you can sit that will help you hear better, or they may be able to ask the licensing board to speak up.



**This section gives a more detailed explanation of some of the words and phrases you will find in the toolkit.**

## Who's who in alcohol licensing

### **Agent**

- It is common for a person applying for a premises licence to have someone present their application and respond to any objections. This person is referred to as the applicant's agent. This is normally a solicitor.

### **Applicant**

- This is the person or business applying for a licence.

### **Clerk of the licensing board**

- The job of the clerk of the board, or deputy clerk, is to give legal advice to the licensing board. They are employed by the council and are legally qualified. During hearings, they often sit in front of the licensing board, or beside the convener.

### **Community councils**

- Community councils are voluntary organisations made up of local residents that represent the interests of people living in their community. Community councils must be notified of new licence applications in their local area. The licensing board will often seek their views during the development of the statement of licensing policy. Representatives from community councils are often members of local licensing forums.

### **Convener (or 'Chair') of licensing board**

- The convener of the licensing board is a councillor. He/she is often referred to as the chair of the licensing board as he/she chairs its hearings. He/she will have the casting vote if there is a split decision of the licensing board.

### **Health board**

- The local health board for the area is sent all applications for new premises licences and licence variations, and has the right to object to applications.
- It must be part of the local licensing forum.
- The health board must provide the licensing board with information for the statement of licensing policy. The licensing board must consult them when the licensing board is developing its overprovision policy.

## Licensing board

- Licensing boards decide all applications for licences to sell and serve alcohol in their area.
- There is one licensing board in each local authority. (Exceptions: South Lanarkshire, Dumfries and Galloway and Aberdeenshire have more than one, known as divisional licensing boards.)
- Licensing boards must publish a statement of licensing policy every three years, and must assess overprovision in the area they cover.
- Each licensing board will have between 5 and 10 members. Members are local councillors and must complete a course and exam before sitting on the board.
- Despite being made up of local councillors, the licensing board is separate from the council.

## Licensing Standards Officers (LSOs)

- Licensing Standards Officers (LSOs) are council employees. Each council decides how many LSOs are needed in its area. LSOs have three roles:
  - Guidance – provide guidance on alcohol licensing to the public and licensed trade.
  - Mediation – mediate in low level disputes between the public and the licensed trade.
  - Compliance – check that licensed premises are complying with the law. If problems are not resolved, the LSO can ask the licensing board to review the premises licence.

## Local licensing forum

- The local licensing forum reviews or scrutinises the operation of the Licensing (Scotland) Act 2005 in its area and gives advice and makes recommendations to the licensing board. The licensing board must have regard to this advice and recommendations.
- The licensing forum cannot comment on individual cases.
- There are between 5 and 21 members of each forum. It must include at least one LSO for the area and a representative of the health board. Other members commonly include licence holders; police; health, education or social work; young people; and residents.
- The licensing forum has at least one meeting with the licensing board every year.

## Police

- The police are sent all applications for new licences and licence variations, and have the right to object to applications.
- They enforce the law, have the power of entry to licensed premises and authorise test purchasing of alcohol.
- If the police have concerns about a premises or a personal licence holder, they can ask the licensing board to review the licence.
- The police must provide the licensing board with information for the statement of licensing policy. The licensing board must consult the police when developing its overprovision policy.

## Premises manager

- The premises manager is responsible for the day-to-day running of a licensed premises. They can only be the premises manager for one premises.
- The premises manager must be a personal licence holder.

## Other organisations that might get involved:

### Alcohol and Drug Partnerships (ADPs)

- An ADP includes members of the local health board, local authority, police, prison service and voluntary sector. ADPs are responsible for drawing up joint strategies for tackling alcohol and drug use in their communities.

### Community Planning Partnerships (CPPs)

- CPPs are hosted by the local authority and are made up of representatives from health, police, education, fire, councillors and sometimes council departments. A CPP coordinates services for a particular area.

### Community Safety Partnerships (CSPs)

- CSPs are local authority-led partnerships that bring together representatives from the local authority, police service and fire and rescue services. Health, education and other public sector interests may also be represented. CSPs work to reduce anti-social behaviour and fear of crime and to promote safer, more inclusive and healthier communities.

### Health and Social Care Partnerships (HSCPs)

- A HSCP is a partnership managed by the health board and local authority, and includes voluntary sector and independent sector organisations. It plans the local delivery of integrated health and social care services.

## Types of licences

### **Occasional licence**

- If a premises is not licensed but wishes to sell alcohol for a particular event, an application can be made to the licensing board for an occasional licence.
- Similar national mandatory conditions to those applying to premises licences also apply to occasional licences.
- Premises and personal licence holders can apply for an occasional licence. Voluntary organisations can also apply if the event is linked to their activities. Members clubs need an occasional licence to allow the general public to buy and consume alcohol on their premises.
- There are rules about the number of occasional licences voluntary organisations and members clubs can have in a 12 month period.

### **Personal licence**

- A personal licence allows a person to authorise or supervise the sale of alcohol, and to train staff to the required minimum.
- Personal licence holders must complete a course and exam, and then apply to the licensing board for their licence. They must complete refresher training within five years of gaining their licence.
- Every premises (with the exception of members clubs) must have at least one personal licence holder – the premises manager – but in practice most premises have several. It is common for managers and supervisors to hold personal licences.

### **Premises licence**

- For a place to be allowed to sell alcohol, it must have a premises or occasional licence, or be an exempt premises.
- A premises licence allows alcohol to be sold. Any premises selling alcohol, whether on-sale or off-sale, must have a premises licence. A premises licence is granted by the licensing board of the area where the premises is situated.
- The premises licence includes an operating plan and layout plan and has various conditions attached to it. Breach of a condition will lead to a review of the premises licence.
- Premises licences last indefinitely but can be reviewed in certain circumstances.

## **Provisional licence**

- A provisional licence will allow a business to be granted a premises licence once the premises are built or converted. It lasts for up to four years. It is counted for the purposes of overprovision, even though the premises is not trading.

## Types of premises

### **Exempt premises**

- Some premises do not need to have a licence to sell alcohol.
- Exempt premises are international airports, international ports, and trains, aeroplanes, ships, boats and ferries on journeys.

### **Licensed premises**

- Any place selling alcohol to the general public must have a premises licence and is called a licensed premises. This could be a supermarket, convenience store, pub, club, restaurant, café etc.

### **Members clubs**

- Members clubs are premises that are not open to the general public and can only be used by their members and their members' guests, such as a bowling club. Their business must not be conducted to make a profit.
- Because they do not sell alcohol to the general public, special rules apply to members clubs. While they need to have a premises licence, they do not need to have a premises manager nor for the sale of alcohol to be supervised by a personal licence holder.
- If a members club wanted to sell alcohol to the general public, it must apply for an occasional licence.
- The number of members clubs is not included when a licensing board assesses whether there is overprovision in an area.

### **Off-sales premises (also known as off-licence)**

- This is a shop selling alcohol to be taken away and drunk off the premises. Examples are supermarkets, convenience stores, specialist off-licences and gift shops.

### **On-sales premises (also known as on-licence)**

- These are premises selling alcohol to be drunk within the premises. Examples include pubs, clubs, and restaurants.

## Licensing terms

### Alcohol display area

- Off-sales are only allowed to display alcohol in one or two areas, known as the alcohol display areas. One of these areas must be 'alcohol only.'
- The alcohol display area is shown in the layout plan.

### Conditions

- Certain rules about how alcohol can be sold and how businesses must be run are attached to all premises and occasional licences. These are called 'national mandatory conditions.'
- A licensing board can also attach 'local conditions' to some or all of the premises and occasional licences in their area. These local conditions will usually be listed in the board's statement of licensing policy.

### Delegated powers

- Decision-making powers for certain applications can be delegated to a sub-committee of the licensing board, the convener, the clerk of the board and/or the clerk's staff, rather than being considered by the full licensing board.
- Examples of the types of applications that might be dealt with under delegated powers are the granting of occasional and personal licences and minor variations where there are no concerns or objections.

### Grounds for objections

- An application for a new premises licence or licence variation can only be refused for specific reasons set out in law. These are:
  - Granting the licence/ variation would be inconsistent with one of the five licensing objectives.
  - The premises is 'excluded' in terms of the Licensing (Scotland) Act 2005 (a motorway service station or garage).
  - An application for the same premises was refused within one year.
  - Given the nature of the proposed activities, the likely customers and the premises themselves, the premises are unsuitable for the sale of alcohol.
  - If the application were to be granted it would result in overprovision (too many premises of a particular type in that area).

## Hearing

- A hearing is the licensing board meeting where it undertakes its business, such as deciding on licence applications or reviewing licences.

## Irresponsible promotions

- It is a condition of all premises and occasional licences that businesses must not run irresponsible promotions. Any premises running an irresponsible promotion could have its licence reviewed.
- Examples of irresponsible promotions are given in the Licensing (Scotland) Act 2005. These include deals that encourage, or seek to encourage, a person to buy or drink more alcohol than they had intended, for example 'buy one get one free' offers or 3 bottles for £10.
- In addition to the specific examples given in the 2005 Act, the licensing board may judge a particular promotion to be irresponsible.

## Layout plan

- The layout plan shows how the premises is laid out. For off-sales, this will include the alcohol display area, and for on-sales this includes the bar and seating areas.
- The layout plan must be provided as part of a licence application. It forms part of the premises licence.
- If a licence holder wishes to make changes to the layout plan, they must apply for a 'licence variation.'

## Licence review (premises licence review)

- If there are concerns about how a business is operating, the police, the LSO, the licensing board and any person can apply for a review of a premises licence. There are specified grounds for a review: breach of a licence condition, or something relevant to the licensing objectives.
- If the licensing board decides there are grounds for a review, they must hold a hearing. If the review is upheld, the board has the option of issuing a written warning, varying the licence, suspending the licence or revoking it.

## Licence review (personal licence review)

- The licensing board can review a personal licence under certain circumstances: if the licence holder has acted inconsistently with the licensing objectives or has convictions.
- The licensing board can decide to revoke, suspend or endorse the licence.

## **Licence variations: minor and non-minor ('major')**

- A variation is where an existing premises applies to the licensing board to change how it operates.
- Certain small changes, as detailed in legislation, are 'minor' variations. Minor variations would include things like reducing opening hours. These are granted automatically, often under delegated powers.
- Non-minor variations are commonly called 'major variations'. An example would be a business wanting to change from a restaurant to an off-sales. The process is very similar to an application for a new licence. The licence already exists and it cannot be taken away, but people can object to the changes.

## **Licensed hours**

- These are the hours that alcohol can be sold and, for on-sales, when customers can drink it on the premises. The licensing board's approach to licensed hours are detailed in its statement of licensing policy.
- By law, off-sales premises cannot sell alcohol before 10am and after 10pm.
- There are no specific rules for on-sales, but there is a presumption against granting 24 hour licences.

## **Licensing objectives**

- The Licensing (Scotland) Act 2005 is based on five licensing objectives. All licensing decisions must be made with reference to these five objectives. All five objectives are of equal importance. They are:
  - preventing crime and disorder,
  - securing public safety,
  - preventing public nuisance,
  - protecting and improving public health, and
  - protecting children from harm.
- If an application is felt to be inconsistent with any of the five objectives, the licensing board can refuse the application.
- The licensing board must seek to promote the licensing objectives in its statement of licensing policy.
- If a premises or personal licence holder acts inconsistently with the licensing objectives, they could have their licence reviewed.



## Licensing (Scotland) Act 2005 (the '2005 Act')

- This is the main legislation setting out the rules for the alcohol licensing system in Scotland.

### Notice of application

- An application for a new premises licence must be advertised for 21 days, to give people the opportunity to send comments to the licensing board.
- The premises must display a notice advising that an application has been made. While these notices can be in legal language, they should provide the following information:
  - the name and address of the applicant
  - the date by which objections/representations must be received by the licensing board.
  - information on the nature of the business and proposed licensed hours (in the case of new premises licence applications.)
  - a brief overview of the proposed changes to the licence (in the case of licence variation applications.)
- The licensing board must also contact the following people with details of the application:
  - neighbours living within 4 metres of the premises;
  - the local community council(s) for the area;
  - the council;
  - the health board;
  - the police;
  - the fire authority.

### Objections

- Anybody is able to object to applications for new premises or occasional licences, and to 'major' variations of existing licences. They do not need to live nearby the premises.
- There are strict requirements about timescales and the grounds for objections (see 'grounds for objections.')
- Objectors must be made in writing to the licensing board.
- Objectors can request a statement of reasons from the licensing board for its decision. Objectors have 14 days to write to the licensing boards to ask for written reasons for the decision. The licensing board should provide these reasons within 14 days.
- Objectors can only appeal against the granting of an occasional licence. They have no direct right of appeal against the granting of new premises licences, provisional licences or major variations, though there is the possibility of judicial review. Anyone considering this route may wish to seek independent legal advice.

## Offences

- Licensing law creates a number of offences. Some of these apply to individuals, such as buying or drinking alcohol when drunk in licensed premises or buying alcohol for someone under the age of 18 (there is a small exception with meals). Other offences apply to licence holders, including selling alcohol to a drunk person or an underage person or failing to display certain important notices.

## Operating plan

- The operating plan details how the premises will run. This includes things like licensed hours; whether it's on- or off-sales; if under 18s are allowed; and activities the premises will run, for example karaoke, functions, adult entertainment.
- The operating plan must be provided as part of a licence application and forms part of the premises licence. If a licence holder wishes to make changes to the operating plan, they must apply for a 'licence variation.'

## Overprovision

- Overprovision is where the licensing board determines there are enough/too many premises in a particular locality.
- As part of its statement of licensing policy, a licensing board has to include an assessment of whether there is any overprovision in its area.
- It is for the licensing board to decide what a locality is. Localities can range from small areas such as a street, to larger areas such as towns or the whole local authority area.
- The licensing board can also specify the types of premises it considers to be overprovided in an area. For example, it could decide there are enough supermarkets or pubs in a particular area but that there is not overprovision of other types of premises such as restaurants or hotels.

## Representations

- A representation can be made to the licensing board to either support an application or to ask the licensing board to modify it in some way, for example limit its opening hours. Anybody is able to make a representation to the licensing board.
- Making a representation is the same process as making an objection.

## **Statement of licensing policy (also known as licensing policy statement, licensing policy, board policy)**

- The statement of licensing policy sets out the licensing board's general approach to making licensing decisions and how it will promote the five licensing objectives. Licensing board decisions should be in line with this policy, although they can make exceptions.
- As part of the statement of licensing policy, the licensing board must include a statement of overprovision and should also include the hours that licensed premises will be allowed to sell alcohol.
- The licensing board must gather sufficient information to ensure its policy is well considered. The police, health board and relevant council must provide information and it can be requested from anyone else. Ideally the statement of licensing policy should take account of other local strategies where alcohol is a factor, including crime prevention, community safety and health.
- Currently all licensing boards must update their statement of licensing policy every three years. Under new legislation they will be required to produce these policies every 5 years, within 18 months of local government elections.

## Useful contacts

You should find details of the licensing board, local licensing forum and Licensing Standards Officer on your local council's website. It would be helpful to search using the terms such as 'alcohol licensing,' 'liquor licensing,' 'licensing board,' 'Licensing Standards Officer,' and 'licensing forum'.

Alternatively, a list of licensing contacts can be found on Alcohol Focus Scotland's website [www.alcohol-focus-scotland.org.uk](http://www.alcohol-focus-scotland.org.uk)



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