

## LICENSING JARGON-BUSTER ISSUED BY ALCOHOL FOCUS SCOTLAND

### Licensing terms

[Licensing Boards](#)

[Licensing Standards Officers \(LSOs\)](#)

[Licensing Policy Statement](#)

[What is a Local Licensing Forum?](#)

[What is the legal background to Local](#)

[Licensing Forums?](#)

[Support for Forums](#)

[Police](#)

[Premises licence](#)

[Operating plan](#)

[Licensed hours](#)

[Premises manager](#)

[Conditions](#)

[Occasional licence](#)

[Offences](#)

[Personal licence](#)

[Irresponsible promotions](#)

[5 objectives](#)

[Licensing Register](#)

[Test purchasing](#)

[Overprovision](#)

### Licensing Boards

A Licensing Board is a quasi-judicial body established by the council for the area to meet the requirements of the Licensing (Scotland) Act 2005, although they've been around in a similar format since 1976. Where a council is split into divisions it may choose to have a Licensing Board per division.

Licensing Boards are responsible for making decisions on licensing applications made under the Licensing (Scotland) Act 2005. They can also review personal and premises licences, which includes the options of suspending or revoking the licence. Decisions are recorded in the publicly available Licensing Register.

Boards must publish a Licensing Policy Statement every three years and must assess overprovision in the area they cover.

There are between 5 and 10 members. Board members are local councillors elected by the Council onto the Licensing Board. Members must complete a one-day accredited training course, and pass an exam, within 3 months of being elected to the Board.

### Licensing Standards Officers (LSOs)

The council is required by law to employ Licensing Standards Officers (LSOs), although the council can determine how many are appropriate for their area.

LSOs have 3 roles:

1. **Guidance** – to provide guidance on liquor licensing to members of the public and the licensed trade
2. **Mediation** – to mediate in low level disputes between members of the public and the licensed trade
3. **Compliance** – to check that licensed premises are complying with the law. (Note: the police are still responsible for enforcing the law.) If there are problems which are not resolved, the LSO can initiate a review of the licence.

This means that LSOs would be expected to visit licensed premises, build good relationships with the licensed trade, have a good knowledge of liquor licensing law and conflict management skills.

LSOs must complete a three-day accredited training course, and pass an exam, within 18 months of being employed in the role.

### Licensing Policy Statement

The Licensing Board is obliged to issue a Licensing Policy Statement every 3 years which will set out the Board's general approach to making licensing decisions. The Licensing Policy Statement is important. It shows how the Licensing Board will meet the 5 objectives that underpin all liquor licensing in Scotland. It should include the sort of hours the Board considers appropriate for different premises in the area; a statement of overprovision (from Nov 2010); a statement regarding Licensing Standards Officers and the agreed procedures the Board has for licensing administration. It can include many other things as well such as how licensing links to other local strategies and any conditions the Board are likely to attach to licences. A Supplementary Licensing Policy Statement can be issued by the Board at any time if the need arises.

The Licensing Policy Statement can normally be found on the Council's website.

### What is a Local Licensing Forum?

A Local Licensing Forum is a body established by the local authority (the council) to meet the requirements of the Licensing (Scotland) Act 2005.

The principle behind Local Licensing Forums is to link the people who are affected by licensing decisions to the decision makers, and to feed in the 'grass roots' perspective. Licensing touches all of us – be it the benefits or the problems linked to particular premises where you live; the impact of drinking on the work of the police, ambulance, fire and health

services; or the litter and anti-social behaviour caused by customers of certain premises.

The Forum's role is to keep under review the operation of the Licensing (Scotland) Act 2005 in its area and to give advice and make recommendations to the Licensing Board in relation to such matters as the Forum considers appropriate. This will be mainly at a policy level as the Forum cannot comment on individual cases.

The Forum is independent from the Licensing Board but at the same time it shares the common goal of having the local community's best interests at the heart of its decision making.

### What is the legal background to Local Licensing Forums?

The Licensing (Scotland) Act 2005 requires each council to establish a Local Licensing Forum. Where the council has several divisions, they may choose to establish a Local Licensing Forum for each division.

The law states that Local Licensing Forums have two roles:

- **Review:** Forums should review the operation of the Act in their area and keep under review the exercise by the Licensing Board of their functions.
- **Advice:** Forums should give advice and make recommendations on such matters as the Forum considers appropriate.

The law requires a Local Licensing Forum to have between 5 and 21 members. At least one Licensing Standards Officer for the area and one representative of:

- Licence holders
- Police
- Health, education or social work
- Young people
- Residents

### Support for Forums

#### Administration

Apart from having a statutory duty to establish Licensing Forums, councils require to provide Forums with such staff, property and services as the council considers is required for the Forum's purposes. It is normal for this to include a venue for the Forum meetings, an administration person to take, produce and circulate minutes and a legally qualified person

with experience of liquor licensing to provide legal advice if required. It could also include a budget for training of Forum members if considered appropriate.

### **Information**

The Licensing Board must supply data and relevant information to the Forum when requested. Licensing Boards must also consider any recommendations made by the Forum and, if they choose not to follow the Forum's advice, they must provide reasons to the Forum within 42 days.

At least one [Licensing Standards Officer \(LSO\)](#) sits on the Forum. The LSOs work closely with the Licensing Board, the Licensing Forum, the local police and the licensed trade and can bring information from each of these areas. They can supply information from their own observations made when visiting premises; from any complaints received and some statistical information.

Members of the Forum represent a range of interests in order that they can bring a variety of perspectives on the local situation to the Forum. The type of information they can bring will also vary. For example, representatives of bodies such as the police are more likely to have statistical information, whereas representatives of residents will bring their, and their neighbours', observations of issues.

### **Police**

The police are responsible for enforcing the legislation. There will be a police representative on the Local Licensing Forum and the police normally attend Licensing Board meetings and will be asked for their comments on applications or reviews.

### **Premises licences**

In order to sell alcohol a place must be licensed. The company or owner applies to the Licensing Board of the council area where the premises is situated for a premises licence. If the application is granted, the Licensing Board will attach various conditions to the premises licence which they must abide by.

### **Operating plan**

The operating plan forms part of the premises licence. It will detail how the premises will run, including:

- What activities will happen on the premises and at what times
- The licensed hours for the premises – i.e. the times when the premises will be open and selling alcohol
- Whether alcohol will be sold for drinking on the premises (on-licence) and/or for taking away (off-sales)
- For on-licence only, whether children will be allowed and if so, what ages, to which parts of the premises and at what times
- The capacity of the premises
- The name of the premises manager

### **Premises manager**

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

### **Occasional licences**

If a premises is not usually licensed but wishes to sell alcohol on an occasion, an application can be made to the Licensing Board for an occasional licence. The Licensing Board will attach various conditions to the licence.

### **Personal licences**

To be the premises manager for a licensed premises a person must be a personal licence holder (PLH). Personal licence holders must complete a one-day accredited course and pass an exam. They must then apply to the Licensing Board for their licence and include certain information.

It is good practice for premises to have more than one person trained to this level to provide support for the premises manager. The Licensing Board may require large or busy premises to have several personal licence holders. Certain late opening premises – mainly nightclubs and lap dancing venues – are required by the law to have a personal licence holder on the premises at all times after 1am.

## Conditions

There are a number of national mandatory conditions that are attached to all premises and occasional licences. These are listed at

[http://www.opsi.gov.uk/legislation/scotland/acts2005/asp\\_20050016\\_en\\_15](http://www.opsi.gov.uk/legislation/scotland/acts2005/asp_20050016_en_15).

In addition a Licensing Board can choose to attach local conditions to some or all of the premises and occasional licences in their area.

## Offences

There are a range of offences detailed under licensing law. It is not appropriate to list them here however be aware that they include buying or drinking alcohol when drunk in licensed premises; buying or drinking alcohol for an underager (there is a small exception with meals); selling alcohol to a drunk person or an underage person.

In addition note that licence holders can commit offences by failing to display certain important notices, generally relating to underagers.

## Licensed hours

Licensed hours means the times when a premises is allowed to sell alcohol. These hours will be listed on the premises licence. If a premises wishes to change their licensed hours they would apply to the Licensing Board for a variation of their licence.

Licensing Boards normally give an indication of the sort of licensed hours they think appropriate for premises in their Licensing Policy.

## Irresponsible promotions

It is one of the national mandatory conditions attached to all premises and occasional licences that they may not carry out an irresponsible drinks promotion on, or in connection with, the premises. A list of examples of irresponsible promotions is given in the Act, and Scottish Government Ministers can add to this list in the future. In addition, the Licensing

Board may judge a particular promotion to be irresponsible.

## 5 objectives

The Licensing (Scotland) Act 2005 is based on 5 licensing objectives. All licensing decisions must be made with reference to these 5 objectives. All are of equal importance. They are:

- preventing crime and disorder,
- securing public safety,
- preventing public nuisance,
- protecting and improving public health, and
- protecting children and young persons from harm.

## Licensing Register

The Licensing Register is kept by the Licensing Board. It must be available to the public to view. It will have information about applications and decisions made about premises, personal and occasional licences.

## Test purchasing

Test purchasing is where an underage person is sent into premises to attempt to buy age-restricted products. Only the police can authorise test purchasing of alcohol. (Note that Trading Standards carry out test purchasing of items such as cigarettes.)

Normally the police will use test purchasing where there are concerns about a premises selling alcohol to persons under 18 years of age.

## Overprovision

Overprovision is where there are too many premises in a particular locality.

Licensing Boards must include a statement of overprovision in the Licensing Policy. It is for the Licensing Board to decide how they wish to divide their area into localities. They must

also consider the different types of premises in the locality and the size of the those premises.

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