
SALE OF LIQUOR POLICY

Adopted by Council 12 August 2008

1. Introduction

The object of the Sale of Liquor Act 1989 (the Act) is 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 alcohol related harm. The sale of liquor to the public requires a licence and under the Act each local authority is the District Licensing Agency for its district.

As the District Licensing Agency for Lower Hutt, Hutt City Council's (Council) Sale of Liquor Policy (Policy) helps provide clear guidelines for Council, officers and the public. This will encourage people to enjoy alcohol in moderation and be free of the harm that can occur when alcohol is used in a harmful or hazardous manner. By addressing some of the issues in regard to the supply, provision and promotion of alcohol in Hutt City, the Council will contribute to an improvement in some of the wider health and social issues in the community.

Council recognises that there is a need for a multi dimensional and organisational approach to achieving the purpose of the Act, which involves all stakeholders including:

- Licensees
- Patrons
- Agencies with statutory reporting responsibilities
- Government and non-government agencies
- Owners and occupiers in the vicinity of licensed premises
- Businesses, residents and visitors to Lower Hutt

The Policy is an important part of Council's Policy Framework.

2. Purpose

The purpose of the Policy is to set out the expectations of Council and the community in achieving the following:

The object of the Act –

The object of the Act is 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 alcohol related harm, so far as can be achieved by legislative means.¹

Council's vision for Hutt City –

The Council's vision for the city is that Hutt City is a great place to live, work and play.²

Hutt City's Community Charter –

Hutt City's Community Charter states that together we can make a difference and there is a place for everyone in this city.

Hutt City's Community Outcomes –

The expectations of the community are expressed through the Hutt City Community Outcomes, which are set out in the current Long Term Council Community Plan (Community Plan). The 2006 - 2017 Community Plan identifies the following relevant community outcome:

- *A city that is safe;*

The Council will contribute to the achievement of this outcome by establishing a policy that maintains a reasonable system of control over the sale and supply of liquor to the public, with the aim of contributing to the reduction of alcohol related harm.

3. Co-operation between Agencies

There are a number of stakeholders involved in matters associated with the sale and supply of liquor.

Within the wider Hutt Valley context coordination is achieved through the Hutt Valley Liquor Liaison Group (the Group).³ The Group works together to

¹ Sale of Liquor Act 1989, section 4.

² Hutt City Long Term Council Community Plan, p4.

³Hutt Valley Liquor Licensing Group members include: Police; Regional Public Health; District Licensing Agency; Fire Service; Hotel Association of New Zealand; Council's Community Development representatives; Alcohol Advisory Council and the Accident Compensation Corporation.

prevent alcohol related harm, in particular youth access to alcohol and enforcement issues, through a variety of methods, for example the initiative to make school grounds alcohol free and drink driving initiatives. The Group shares information on incidents at licensed premises, major events involving alcohol are reported on to the Group and the Group provides input or comments especially with regard to applications for renewal of liquor licences.

The Act determines that three agencies - the Police, Medical Officer of Health and District Licensing Agencies - have a statutory responsibility at the local level for reporting on liquor licence applications. Working as the "Coordinated Enforcement Group" they also deal with specific instances where licensee's are held accountable for any alleged breaches of their licence conditions. The Fire Service also has responsibilities. To successfully achieve the object of the Act and the purpose of the Policy, all these agencies must work together, along with stakeholders.

4. Legal Framework

The Sale of Liquor Act 1989 is the legislative base for a number of matters related to alcohol. It includes the regulatory mechanisms for processing applications for liquor licences and certification of managers. There are a number of other pieces of legislation that are relevant to the sale of liquor, including the Local Government Act 2002 and the Resource Management Act 1991.

In processing applications under the Sale of Liquor Act this Policy will form part of the guidelines used in assessing applications. Where the Policy includes quantified criteria (for example, hours of operation) and an application exceeds these it is likely that an objection will be lodged by Council Licensing Inspectors. Each application will be considered based on the facts surrounding the application, with guidance from the Policy. The decision and conditions regarding a particular application should not be considered to be precedent for subsequent applications.

The City of Lower Hutt District Plan, prepared under the provisions of the Resource Management Act 1991, also includes a number of provisions of relevance to licensed premises including provisions under specific activity areas which require a resource consent application for licensed premises. There are also a number of General Rules of relevance including car parking and noise standards. Advice should be sought from Council on the District Plan implications of any proposal.

5. Consultation

Legislation does not require a council or district licensing agency to have a sale of liquor policy; however the Liquor Licensing Authority has indicated support for such policies to be developed at the local level. The Liquor Licensing Authority stated in CG and SM Laidlaw LLA Decision 986/96:

Where a general policy is to be established we think it is important that all those concerned – including licensees – be given the opportunity for input prior to any general policy decision being reached ... The committee's 'policy' is not binding on this Authority but we welcome and encourage expressions of opinion from Local Authorities in their capacity as District Licensing Agencies. Such opinion shall receive extra weight from us where a decision follows full consultation (including with local licensees and other interests such as that of the Hospitality Association of New Zealand.)

One of the crucial elements of this and other decisions of the Liquor Licensing Authority has been the importance of a thorough consultation programme in determining the Council's policy. While the Liquor Licensing Authority is clear it will not be bound by council policies, it is evident that it will give greater weight to such policies if they have been subject to a consultation process where all stakeholders have had the opportunity to be involved. Other relevant cases from the Liquor Licensing Authority on matters relating to local policy include D M Fitzpatrick LLA Decision 576/96 and I M Fraser LLA Decisions 572-573/96.

The Local Government Act 2002⁴ states that a local authority must consider the views and preferences of anyone who is likely to be affected by, or who has an interest in, a decision made by that local authority.

6. Policy Instruments

For the object of the Act, the City Vision, the Community Charter, and the Community Outcomes to be realised three principal instruments must be developed, implemented and maintained. These instruments must be viewed as an integrated set of measures that work together. All the instruments need to be implemented to ensure that the desired outcomes are achieved. The instruments are host responsibility, education and communication, and hours of operation.

⁴ Local Government Act 2002, section 78.

6.1 Host Responsibility

Council believes that fundamental to achieving the object of the Act and the intent of this policy is **excellence in host responsibility**. The requirement for host responsibility is contained within the Act and administered through the application process and ongoing monitoring. Applicants for new and the renewal of on, off and club licences are required to produce and supply a comprehensive policy with their licence application, and that management will ensure that their staff are aware of and comply with their Host Responsibility policy. Generally excellence will be achieved through:

- Ensuring that the overall environment of the premises and that of the area outside of the premises is conducive to preventing alcohol related harm and encouraging moderation;
- Ensuring that the serving of alcohol is carried out in a responsible manner;
- Ensuring under age drinking does not occur through insisting that recognised evidence of age documents* are requested by the licensee and all staff;

(* The Act states these to be a passport, New Zealand Drivers Licence and a HANZ 18+ card)

- Ensuring that patrons do not become intoxicated and where intoxicated persons do present themselves, they are not served further alcohol;
- Providing staff with the authority necessary to immediately respond to situations involving both under aged drinkers and intoxicated drinkers;
- Ensuring door staff training is undertaken by premises with late night operating hours.
- Accrediting door staff and ensuring that included in the responsibilities for door staff is the area 50m either side of the premises;
- Ensuring adherence to the National Protocol on Alcohol Promotions;
- Providing and promoting readily available non-alcoholic drinks some of which should be free together with the provision and promotion of low-alcoholic drinks;

- Providing and promoting affordable substantial food as well as snack food at all times;
- Ensuring that reasonable steps are taken to avoid the spiking of drinks;
- Providing information, promoting and assisting patrons to access safe forms of transport; and
- Providing staff training and ongoing monitoring of staff performance to support all host responsibility policies.

6.2 Education and Communication

Education in its widest context is considered to be crucial to the overall achievement of the object of the Act, the Community Charter, and of the vision and strategic goals of Council. There are a number of organisations with specific responsibilities for addressing the achievement of a reduction in liquor abuse, including Council in a number of its roles, and in particular the District Licensing Agency. Education of all involved in the sale, supply and consumption of alcohol is an ongoing and long-term sustainable response with the ability to bring about attitudinal and behavioural change.

Communication between all stakeholders is equally fundamental.

Approaches based on education and communication include:

- Excellence in host responsibility;
- Interagency Forums;
- Training Opportunities;
- Programmes run by Hutt City Council, the Police or Regional Public Health;
- Programmes of Government and Non-Government Bodies with relevant responsibilities;
- Youth Council Initiatives;
- Targeted Accords

Council strongly supports the development of local accords to address specific local area issues. Accords require the full co-operation of all relevant

stakeholders during their development and the sign-off of those parties to the finalised accord. While accords have no legal foundation they can be effective at the local level. An accord could be applied to a limited geographic area where licensees and relevant agencies wish to work together to put in place joint initiatives. Matters which Council believes would ideally be addressed through accords include additional strategies to address responsible drinking, initiatives aimed at sector groups (for example youth, visitors), and joint proposals for more restrictive entry provisions than provided for in licences.

In particular Council encourages the relevant parties to explore an accord on lock-downs. A lock-down is a period after which no further patrons will be allowed to enter the licensed premises, and is part of the management process relating to the hours of operation. The purpose of such a lock-down is to encourage responsible drinking and prevent the anti-social behaviour that can be attributed to persons leaving one earlier closing premise and moving to another premise with later closing hours.

6.3 Hours of Operation

One of the tools available for managing alcohol related harm and the adverse effects of anti-social behaviour on the environment is to manage the hours of operation for both on and off licences. Council believes that managing hours is consistent with achieving the object of the Act, the Community Charter, and the strategic goals of the current Long Term Council Community Plan. It is appropriate to differentiate the hours of operation for on and off licences and for licences in different parts of the City. Through host responsibility it is possible for behaviour of those at on licences to be managed, however such opportunity does not exist for sales from off licences. Additionally it is not desirable to provide the opportunity for people leaving on licences in the early morning to purchase further alcohol from off licences. For these reasons the hours for off licences are more restrictive than those for on licences.

An important part of the determination of the hours of operation for a premise is the consideration of activity areas identified in the District Plan for both the site and in the vicinity of the site. Residential land use in particular is more sensitive to factors such as noise and other general amenity values.

Generally the hours of operation specified in this Policy are considered to be the maximum allowable.

While applications for new licences with proposed hours of operation exceeding those specified will be considered against the criteria, generally hours beyond those specified are most likely to be favourably considered where it is possible to assess the current operation – that is be considered at

the time of an application for renewal. The demonstration of excellence in host responsibility will be a fundamental part of the assessment.

Those matters that will be taken into account when assessing applications for hours beyond that specified, recognising that some matters may not be relevant in certain circumstances, will include but not be limited to:

- The demonstration of excellence in host responsibility;
- Compliance with the Act and this Policy;
- Compliance with any other relevant legislation including the gaining of any resource consent required under the Resource Management Act;
- Compliance with any conditions of the licence issued;
- Assessment of any complaints that have been received;
- Overall responsibility of management;
- Existing land uses and those provided for through the District Plan in the immediate vicinity and wider neighbourhood of the applicant's site;
- Assessment of the grounds and explanations given for the need for hours beyond that specified; and
- Means by which the applicant proposes to address any matters that may arise from the granting of the application.

7. On licences

Lower Hutt CBD –

Taverns/Hotels/Nightclubs

7.00am – 3.00am the following day, Monday to Sunday

Restaurants/Cafes

7.00am – 1.00am the following day, Monday to Sunday

All other areas –

Taverns/Bars/Pubs/Restaurants/Cafes

7.00am – 1.00am the following day, Monday to Sunday

8. Off Licences

Lower Hutt CBD and Petone

7.00am – midnight

All other areas

7.00am - 11.00pm

Notes:

1. The Act contains specific provisions in respect of Good Friday, Easter Sunday, Christmas Day and ANZAC Day.
2. Applicants need to be aware that requirements of the District Plan may include more restrictive hours than in this Policy – it is the responsibility of the applicant to gain any resource consents necessary. Advice should be sought on this from the Environmental Consents Division of Council.

9. Club Licences

In the case of Club Licences, it is inappropriate to specify a general maximum for their hours of operation due to the varying nature of their activities and that they are located in a variety of locations. However, hours of operation are generally expected to be within those detailed for on licences, and the hours should take into account the nature of the principal activity of the club.

However, hours of operation must be specified and a special licence is required if hiring out club facilities.

10. Special Licences

The Act provides for the issuing of Special Licences for occasions or events, be they one-off or in a series. Special Licences should not be viewed as an alternative to other forms of licence provided for by the Act or as a means of extending normal hours beyond those allowed for under a premise licence.

Any such extension, when requested, will be a privilege reserved for responsible operators.

Nor should Special Licences be seen as a means of circumventing the requirements of the Act in respect of Good Friday, Easter Sunday, Christmas Day and ANZAC Day.

Generally the hours of operation for Special Licence should not be beyond those stated above for on licences. The District Licensing Agency will normally consider up to 12 events per application. The twelve events should occur within one calendar year. However a maximum number of 24 may be permitted annually for small social gatherings with a maximum of 4 hours duration. But as noted above, Special Licences are not a substitute for a full licence.

Applicants for Special Licences need to provide with their application details on the nature of the occasions or events with supporting documents as appropriate, and where the application involves premises that already have a licence reasons must be provided as to why an extension beyond the hours of that licence are sought. The applicant will be required to supply details of door security arrangements and controls on the supply of liquor to persons attending events at any community hall, club or marquee.

11. Temporary Authorities

A Temporary Authority for the continued use of a premise can be granted in a situation where a premises changes ownership. The Temporary Authority allows the premises to continue to operate on the basis of the current licence and are issued for a period of no more than three months. During this time it will be expected that a new application will be lodged and processed. Generally no more than one Temporary Authority will be granted as the three month period provides sufficient time for the new application to be processed providing no unusual circumstances occur.

12. Liquor Bylaws and Bans

Council uses its Control of Liquor in Public Places Bylaw 2004 (the Bylaw) to achieve the object of the Act, the Community Charter, the Long Term Council Community Plan and the District Plan. The Bylaw bans the consumption of liquor in various areas and at various times.⁵

13. Monitoring and Enforcement

The Hutt Valley Liquor Liason Group and the Coordinated Enforcement Group (refer to section 3 above) have responsibilities to ensure compliance with the Sale of Liquor Act 1989. Enforcement responsibilities are undertaken by DLA inspectors, Police and Regional Public Health officials. This can comprise visits by police and licensing officials to licensed premises during trading hours to monitor and ensure compliance with licensing laws. Where breaches of licensing laws are identified, police and regulatory officials meet with the licensees to talk about why the breach occurred and how the situation can be prevented from happening again. These meetings are attended by the Coordinated Enforcement Group. Where serious breaches of licensing conditions are witnessed or on-going non-compliance with liquor legislation is identified and not addressed, a report will be made to the Liquor Licensing Authority by the Police or Licensing Inspector (under the Sale of Liquor Act 1989) seeking licence variation, suspension or cancellation.

14. Gaining and Retaining Licences

The Act provides the processes required for achieving a liquor licence for premises and for a manager's certificate. These processes are detailed in information available from Council.

An important part of the consideration of applications for the renewal of licences is an assessment of past performance. The relevant agencies who report on applications are monitoring all aspects of performance and information from this monitoring will be crucial to the assessment of applications for renewal. Licence holders need to be aware that where breaches of conditions or situations occur that are contrary to this policy have been identified, these will be taken into account when considering an application for renewal of a licence. It is likely that where more than one breach occurs without adequate explanation, some form of variation to the licence may be sought, as noted in section 13 above.

⁵ <http://www.huttcity.govt.nz/publications-forms/bylaws/Control-of-Liquor-in-Public-Places/>

15. Reviewing this Policy

This Policy will be reviewed in a maximum of three years from the formal adoption of the Policy by Council on 12 August 2008 or at such earlier time as the Council determines appropriate.