

## Introduction to alcohol licensing in Scotland

### Key Points

- Alcohol is a drug that causes a wide range of negative impacts.
- Licensing is a system of granting permits for the sale of alcohol.
- The system works to prevent and reduce alcohol problems by controlling the overall availability of alcohol through the number, type and opening hours of licensed premises, and by regulating the way individual on-trade premises and off-licences do business.
- Licensing boards decide all applications for licences to sell and serve alcohol in their area.



The purpose of licensing is to limit or control activities which, while legitimate and permitted, are considered to have the potential to be harmful or disruptive.

[Air Weapons and Licensing Scotland Bill Policy Memorandum, 2014](#)



### What is alcohol licensing?

Licensing is a system of granting permits for the sale of alcohol. Although legally available and widely consumed in Scotland, alcohol is a drug with known toxic, intoxicating and addictive effects. Controlling the supply of alcohol is something that public authorities have done for centuries to reduce the risk of harm to individuals and society from its use.

Licensing regulates:

- who can sell alcohol;
- where it can be sold;
- the conditions of sale;
- the hours and days of sale; and
- the number of premises permitted to sell alcohol.

Licensing boards decide all applications for licences to sell and serve alcohol in their area. Board membership consists of local councillors though it is separate from the local authority itself.

## How does the Scottish licensing system work?

The licensing system works to prevent and reduce alcohol problems in two main ways. It carefully controls the overall availability of alcohol through the number, type and opening hours of licensed premises, and it regulates the way individual on-trade premises and off-licences do business.

### Background to licensing in Scotland

Historically, the main focus of licensing work has been on regulation of the on-trade to prevent noise, nuisance, and social disorder associated with drinking in pubs. However, there have been several significant changes in recent years, both to the way alcohol is consumed in Scotland and how it is licensed.

**Firstly, the way we drink has changed.** Today more alcohol is sold in Scotland from off-sales than on-sales and the majority of people do most of their drinking at home. 73% of all alcohol is now sold in off-sales and drunk at home or in other private settings.

**Secondly, we now know more about the consequences of drinking alcohol.**

Alcohol has a wide range of negative impacts that extend far beyond public drunkenness and anti-social behaviour in the streets. Harmful alcohol use impairs long-term health, has a detrimental effect on family and community life, and damages the productive capacity of the economy.

**In 2016, almost three-quarters of alcohol sold in Scotland was sold in supermarkets and off-licences**



Alcohol Sales in Scotland 2016, NHS Health Scotland

**The Licensing (Scotland) Act 2005, which came into force in September 2009, reflects these changes.**

The Licensing (Scotland) Act 2005 significantly altered the licensing system and provided licensing boards with more scope to act in the public interest to restrict the availability of alcohol. The Act established five licensing objectives, including the protection and improvement of public health, as guiding principles on which licensing decisions should be made. These objectives provide a clear purpose for the licensing system.

#### Licensing (Scotland) Act 2005: Licensing Objectives

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

The 2005 Act introduced a duty on licensing boards to publish a statement of licensing policy setting out what action they will take to promote the licensing objectives. This means that individual licensing decisions should be guided by evidence-based policy. This extends the scope of licensing boards to take action to manage and restrict the supply of alcohol in the public interest.

The 2005 Act also places a duty on licensing boards to assess overprovision of licensed premises in their area and refuse premises licence applications where it considers granting the licence would result in, or add to, overprovision. The inclusion of a duty to assess overprovision recognises that the total number, capacity, licensed hours and type of licensed premises, can exacerbate alcohol problems.

## Licensing and economic objectives

Although the licensing regime does not have responsibility for promoting business growth or tourism; in practice, licensing boards will try to manage competing priorities in their assessments and decision-making.

In considering the economic impact of refusing a new premises licence, it is important to test any assumptions about the economic value of an expansion in the licensed trade. It is often not a simple equation between a new premises licence and more local jobs, and nor is there evidence that a vibrant tourism industry depends on an ever-expanding alcohol supply.

Moreover, the financial costs to a local economy from rates of alcohol-related harm can be considerable and should not be overlooked. It is estimated that alcohol-related problems cost Scotland £3.6 billion each year, including direct costs for dealing with alcohol-related crime and health harm as well as indirect costs such as employee absenteeism and reduced productivity.

It is also worth noting that these are largely costs to the public purse, whereas profit from the sale of alcohol is received by private companies. Local alcohol cost profiles are available from Alcohol Focus Scotland's [website](#).

## What types of licence are there?

<p><b>Personal licence</b></p>	<p>A personal licence allows a person to authorise or supervise the sale of alcohol, and to train staff. Personal licence holders must complete a course and exam, and then apply to the licensing board for their licence. Every premises (except members clubs) must have at least one personal licence holder – the premises manager – but in practice most premises have several.</p>
<p><b>Premises licence</b></p>	<p>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.</p>
<p><b>Provisional licence</b></p>	<p>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.</p>
<p><b>Occasional licence</b></p>	<p>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.</p>

## Who's who in Scottish licensing?

Stakeholder	Role
<b>Licensing Board</b>	A licensing board is the decision-making body on licensing matters. The board is responsible for developing the licensing policy statement and deciding on individual applications for premises and other types of licences. Though its membership consists of between 5 and 10 local councillors, the board is separate from the local authority.
<b>Clerk</b>	The clerk of the board provides legal advice to the licensing board. They are employed by the council and are legally qualified.
<b>Local Licensing Forums</b>	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 forum cannot comment on individual cases or applications. There are between 5 and 21 members of each forum. Membership must include at least one Licensing Standards Officer for the area and a representative from the health board. Other members commonly include licence holders; police; health, education or social work representatives; young people; and residents.
<b>Licensing Standards Officers (LSOs)</b>	LSOs are responsible for providing guidance and information to licensing stakeholders; ensuring compliance by licence holders; and providing a mediation service for the purpose of avoiding or resolving disputes. LSOs can also apply to licensing boards for a review of any licence where there has been a failure to comply with a the conditions of their licence. They have powers to enter and inspect premises to ensure compliance with the law and board policy. The local licensing forum must include at least one LSO.
<b>Health Board</b>	The health board must be sent all applications for new premises licences and licence variations and has the right to object to applications. The health board must provide the licensing board with information for the statement of licensing policy and the licensing board must consult them when developing its overprovision policy. Licensing forum membership must include a representative of the health board.
<b>Police</b>	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 licensed 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 and the licensing board must consult the police when developing its overprovision policy.
<b>Community Councils</b>	Community councils must be notified of new licence applications and applications for major variations 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.

<b>Alcohol and Drug Partnerships (ADPs)</b>	<p>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.</p>
<b>Community Planning Partnerships (CPPs)</b>	<p>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.</p>
<b>Community Safety Partnerships (CSPs)</b>	<p>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.</p>
<b>Integration Joint Boards (IJBs)</b>	<p>IJBs are partnerships accountable to the health board and local authority, and includes voluntary sector and independent sector organisations. They plans the local delivery of integrated health and social care services.</p>

## What does a licensing board do day-to-day?

**Meetings:** A licensing board will meet regularly – how often will depend on the amount of business they have. Meetings are normally advertised on the council's website. Licensing boards must meet in public, so anyone can attend a meeting to observe.

**Applications for new premises:** The licensing board must meet to decide on an application for a new premises licence. Whilst only certain people must be notified of the application - police, health board, neighbours, community council, council and the fire authority - any person can object or make representations on specified grounds.

**Variations of existing premises licences:** A premises licence lasts indefinitely unless revoked, suspended or varied. Some variations, such as increasing capacity or longer hours, must be heard by the board and the same notification and rights of objection apply as with a new licence application. A licensing board can also delegate certain functions for dealing with variations to a single member or sub-committee of the licensing board, or to the clerk or other licensing staff. Delegated functions include granting personal and occasional licences where there are no objections.

**Review of a premises licence:** The police, the Licensing Standards Officer (LSO), the licensing board and any person can apply for a review of a premises licence. There are specified grounds for a review, including any grounds relevant to one or more of the five 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.

**Review of a personal licence:** Licensing boards are required to review personal licences if: they receive confirmation that the personal licence holder has a relevant conviction; the police report behavior inconsistent with the licensing objectives; they are reviewing a premises licence; or a personal licence holder has three endorsements on their licence. At a review hearing the board can now also consider whether the licence holder is a fit and proper person. Where the board is satisfied the person is not a fit and proper person, they must revoke the licence.