

# Review of the Sale and Supply of Alcohol (Fees) Regulations 2013

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Report

December 2017



[New Zealand Government](#)

## Acknowledgements

The Ministry acknowledges and thanks all those who provided information and responded to surveys, and all those who made submissions to the review. The Ministry acknowledges the work of Allen + Clarke in undertaking the initial survey of local councils.

Some feedback received from stakeholders related to issues with the licensing system or the Sale and Supply of Alcohol Act 2012 which are outside the scope of the current review of the Sale and Supply of Alcohol (Fees) Regulations 2013. These have been noted for future consideration by the Ministry.

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# Executive Summary

## Introduction

1. In December 2017, the Ministry of Justice completed a review of the Sale and Supply of Alcohol (Fees) Regulations 2013. This review is required by the Sale and Supply of Alcohol Act 2012. This was the first review undertaken since new alcohol licensing regime was introduced, and so included a period of transition from the old regime.
2. The new alcohol licensing regime introduced significant changes to the alcohol licensing system. These included an approach of full recovery of the costs incurred by local councils and the Alcohol Regulatory and Licensing Authority (ARLA), through the licensing fees. Under the previous regime the cost recovery rate was estimated at only 50 percent.
3. Under the new regime, the fee framework sets the amount of each licence fee using a graduated risk-based approach. Three weighted risk factors (type of premises, latest closing time, and number of previous ARLA enforcement decisions) are combined to determine a cost/risk rating, which in turn determines the fee category applied to each licence.
4. The purpose of the review was to assess the extent to which the Regulations are meeting the policy objectives of the licensing fees regime. This report is structured around these objectives:
  - Objective 1:** to recover the total reasonable costs incurred by local councils and ARLA in administering the alcohol licensing system
  - Objective 2:** to ensure that those who create the greatest need for regulatory effort bear the commensurate costs
  - Objective 3:** to allow local circumstances to be reflected in the fees paid by operators and income received by local councils
  - Objective 4:** to minimise alcohol-related harm, to the extent that this can be achieved through a cost recovery fee regime.
5. The review considered a wide range of information and survey responses from a number of sources, including local councils, licensing inspectors, ARLA, New Zealand Police and Medical Officers of Health as well as submissions from industry, community and health stakeholders. The Ministry acknowledges and thanks all those who provided information and responded to the surveys, and all those who made submissions to the review.
6. The review provided a useful early indication of how the alcohol licensing fees framework is meeting its objectives. However, due to the timing of the review there were some significant gaps in the data available, which limited some of the findings. For example, usable data on local councils' cost recovery was only available for one year (2015/16).

# Key Findings

## Objective 1: Cost recovery

- It is too early to determine whether cost recovery is being consistently achieved by councils or by ARLA. Lack of time-series data has limited assessment of this objective.
- Councils' cost allocations, and cost recovery rates for individual councils over time, appear to vary significantly between councils. These differences make comparisons difficult.
- Using councils' reported cost and revenue data for 2015/16:
  - at a *collective* level (cumulative costs over revenue), the cost recovery rate was 108 percent
  - there were significant variations in *individual* council's cost recovery rates, from under 50 percent to over 200 percent. No clear patterns were identified to explain these differences.
- The initial indication is that ARLA's revenue is lower than its costs.
- The composition of ARLA's workload differs from initial forecasts, which may have impacted on its cost profile.

## Objective 2: Regulatory effort and cost/risk factors

- The current cost/risk factors are valid indicators of regulatory effort.
- Evidence to assess the relative risk weightings within and between factors is less clear, but there is nothing to indicate that the current weightings are not appropriate.

## Objective 3: Local circumstances

- Most reporting councils still use the default fees in the Regulations and have not adopted fee setting bylaws.
- However, many councils use the discretionary power in the Regulations to reduce the cost/risk category, and so the licence fee, of certain licence holders.

## Objective 4: Minimisation of harm

- New Zealand Police data on the 'Last Drink' consumed by apprehended individuals indicates a downward trend since the introduction of the new regime. This trend is steeper than the downward trend for all comparable proceedings over the same period.
- The number of ARLA enforcement holdings<sup>1</sup> has also declined since 2013/14.
- Some licensees appear to have adjusted their operating model to reduce their cost/risk category. However, these changes will likely be influenced by other regulatory changes, such as local alcohol policies.
- It is unclear the extent to which the fees have played a role in these trends.

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<sup>1</sup> Enforcement holdings are a finding (a holding) by ARLA that a licensee or a manager of a licensed premises has contravened certain provisions in the Sale and Supply of Alcohol Act 2012, section 288 of the Act.

# Background

## Alcohol Licensing

### Sale and Supply of Alcohol Act 2012

7. Following a comprehensive review by the Law Commission<sup>2</sup>, alcohol regulation was reformed through the adoption of the Sale and Supply of Alcohol Act 2012 (“the Act”). Regulating the sale and supply of alcohol is important to minimising the risk of alcohol-related harm to individuals and communities. Regulation sets requirements for those selling and supplying alcohol. These are met through licensing, monitoring and by taking enforcement action.
8. Local councils<sup>3</sup> administer much of the licensing system, working with local Police and Medical Officers of Health. District Licensing Committees (DLCs) and licensing inspectors carry out key tasks in issuing licences and monitoring licence holders. The Alcohol Regulatory and Licensing Authority (ARLA), a national authority, decides on appeals, applications referred by DLCs, and enforcement applications made by licensing inspectors and Police.
9. Under the Act a full cost recovery approach to alcohol licensing was introduced. It aims to ensure that the costs of the licensing regime, which includes both administration costs and costs such as monitoring and enforcement, are met by those in the sector. A risk-based approach to fees was established to account for both cost and risk, to ensure that operators who create the greatest need for regulatory effort bear the costs.

### Sale and Supply of Alcohol (Fees) Regulations 2013

10. The Sale and Supply of Alcohol (Fees) Regulations 2013 (“the Regulations”) came into force on 18 December 2013. The fees regime established through the Regulations is designed to support the Act, and is designed on principles of equity, efficiency and effectiveness.
11. The specific policy objectives of the Regulations are:
  - Objective 1:** to recover the total reasonable costs incurred by local councils and ARLA in administering the alcohol licensing system
  - Objective 2:** to ensure that those who create the greatest need for regulatory effort bear the commensurate costs
  - Objective 3:** to allow local circumstances to be reflected in the fees paid by operators and income received by local councils
  - Objective 4:** to minimise alcohol-related harm, to the extent that this can be achieved through a cost recovery fee regime.

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<sup>2</sup> Alcohol In Our Lives: Curbing the Harm' (NZLC R114, Wellington 2010), accessible at [www.lawcom.govt.nz](http://www.lawcom.govt.nz)

<sup>3</sup> Referred to as ‘territorial authorities’ in the Act and Regulations and sometimes referred to as TAs. Territorial authority is defined in section 5 of the Act. This report uses the term councils for ease of reading.

## Current Licensing Fees Framework

12. The Regulations provide default fees for on-licences, off-licences and club licences, for both application and annual fees. Three weighted factors are combined to determine a cost/risk rating, which in turn determines the fee category applied to each licence.
13. The Regulations also set default fee amounts for special event licences, manager's certificates, temporary licences, temporary authorities and permanent club charters.
14. For licensed premises, the application fees range from \$320 to \$1,050, while the annual fees range from \$150 to \$1,250. Councils can reduce the licence fee category of an applicant by one level where councils consider it appropriate.
15. The Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013 was also promulgated under the Act. This Order enables councils to make bylaws setting their own fees. This allows the fees to reflect local circumstances and local costs for administering the licensing regime. Fees set by councils must still use the cost/risk rating framework set out in the Regulations for licensed premises. Any change to the default fee for manager's certificates must be agreed and adopted by all councils, because this certificate, once issued, allows the manager to work nationally.
16. The Regulations provide for a portion of the licensing fees collected to be passed to ARLA. This portion ranges from \$15 to \$150 and cannot be changed through bylaw. The Regulations also set a fee of \$450 for appeals to ARLA against a decision of a DLC, or a local alcohol policy.
17. Details of the risk framework and the fees are set out in Appendix 1.

For further background on the introduction of the Act, and the development of a cost recovery risk-based fees regime see the Ministry of Justice's previous papers<sup>4</sup>:

- ❖ Establishing a new fee regime for the alcohol licensing system: A public consultation paper (May 2013)
- ❖ Risk-based licensing fees: Identifying risk factors for the New Zealand context (June 2013)
- ❖ Regulatory Impact Statement - Sales and Supply of Alcohol (Fees) Regulations (August 2013)

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<sup>4</sup> Available through [alcohol@justice.govt.nz](mailto:alcohol@justice.govt.nz).

# About the Review

## Purpose of the Review

18. In accordance with section 404 of the Act, the Ministry of Justice completed a review of the Sale and Supply of Alcohol (Fees) Regulations in 2017. This was the first statutory review of the Regulations since the adoption of the Act.
19. The purpose of the review was to assess the extent to which the Regulations are meeting the objectives of the licensing fees regime and to assess whether the fees regime, overall, is operating efficiently. The review also tested some of the assumptions made when its key features were developed, using available data and insights from its first three years of operation.
20. The review aimed to answer the following questions, which align with the four objectives.
  - To what extent is cost recovery being achieved for local councils and for ARLA?
  - Are the fee categories commensurate to the regulatory effort involved with each licence type; i.e. are the current risk factors and fees still relevant?
  - Is the fees regime resulting in local circumstances being reflected in fees paid and revenue received?
  - To what extent is the fees regime, through its funding of the licensing system, supporting the Act's overall objective of minimising alcohol-related harm?

## Review Period

21. The review covered the period from 18 December 2013 to June 2017. This included a period of transition from the old licensing regime and the establishment of new processes and procedures for local councils, licensing inspectors, District Licensing Committees, ARLA, New Zealand Police, Medical Officers of Health, and licensees.
22. Licences could be issued, and both application/renewal and annual fees collected under the new regime from 18 December 2013. However, transitional provisions applied to existing licence holders. Depending on their licence renewal date, some existing licence holders only became liable to the new renewal fee rates for the first time in 2016/17. Similarly, existing licence holders' liability for the new annual fee occurred gradually over the 2013/14 financial year. This will have affected the availability of funds to councils in 2013/14 and 2014/15. The implications of this timing for the data available for this review are discussed further at paragraph 38.

## Approach

23. The review considered information from a wide range of existing data sources, as well as tailored surveys and submissions.

### Local councils, licensing inspectors and Medical Officers of Health

24. An initial survey of all councils was conducted in July 2017, which included information on councils' costs and revenue for the 2015/16 financial year. This survey also invited general feedback and suggestions on the licensing regime. Responses were received from 90 percent of councils. Following this work, selected councils were approached directly to provide supplementary information to assist with the analysis of objective 1.
25. In September 2017, a detailed online survey of regulatory effort in relation to licence types, individual premises types and other risk factors was conducted. This survey involved councils, licensing inspectors and Medical Officers of Health. It replicated, to the extent possible, a similar survey carried out in 2013 when the risk-based factors were initially determined. The survey was a key component of the assessment of the cost/risk based fees framework (objective 2).

### ARLA information

26. The Ministry's internal administration data on ARLA costs and revenue was considered, to assess ARLA's cost recovery, and to understand the pattern of appeals and referrals to ARLA (objective 1).
27. Analysis was also completed using data on ARLA enforcement holdings<sup>5</sup> and data held by the Ministry on licenced premises. This was used to assess the three risk factors (objective 2). It also provided insights into the impact of enforcement holdings on licensee behaviour, which is one indicator of changes that help minimise alcohol-related harm (objective 4).

### New Zealand Police Alco-link "Last Drink" survey information

28. Analysis was conducted using New Zealand Police data on alcohol consumed by apprehended individuals, known as the "Last Drink" survey. This information is referred to in this report as the "Alco-link data".
29. The Alco-link data relates to individuals apprehended by New Zealand Police. The "Last Drink" survey records individuals' self-reported response to questions about their last alcoholic drink. It links this, where known, to the licensed premises in which the last drink was consumed. The survey counts people (apprehended offenders).
30. A survey is completed for each individual, not each offence, so it is not a record of offences committed. The Alco-link data does not indicate whether any particular offence was "alcohol-related"; information about alcohol as a factor in offending is not recorded in the survey.

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<sup>5</sup> Holdings are ARLA enforcement decisions as defined by section 288 of the Act.

31. The Alco-link data was used as an indicator of the amount of regulatory effort associated with premises types (objective 2). It was also considered as a possible indicator for the Act's overall objective of minimising alcohol-related harm (objective 4).

### Literature/research review

32. An updated literature/research review was completed (see summary at Appendix 5). This built on the literature review undertaken in 2013 as part of the development of the risk-based licensing framework. The updated review looked at the existing and other risk factors associated with licensed premises in the context of a risk-based regime (objective 2). It considered New Zealand and international studies published since 2013.

### Reports considered

33. The review analysed the annual reports prepared by ARLA under section 178 of the Act, by councils under section 199 of the Act for 2016 and 2017, and, where available, council reports under Regulation 19.

### Other sources

34. The Ministry met with, and received submissions from councils, industry and community groups, and other stakeholders such as the Health Promotion Agency. Relevant government departments were invited to provide feedback.
35. The Treasury Guidelines for Setting Charges in the Public Sector (April 2017) and their relevant considerations for cost recovery regimes were taken into account where appropriate.

## Data Limitations

36. There are some significant gaps in the data available for the period of the review. This reflects in some part the early timing of this first review, but also indicates improvements that are needed to data collation and reporting, to inform future reviews.

### Data availability and engagement rates

37. A considerable limitation was the limited availability of time-series data to assess cost recovery. Usable data on councils' cost recovery was only available, and was analysed, for one year (2015/16). As noted at paragraph 22, the first full financial year 2014/15 was still a transitional period with the new fees regime settling in. Any data would have included information under both the old and the new licensing systems and so was not representative of the new regime. Therefore, 2014/15 data was not included as part of the review.
38. The timing of the review, which started in June 2017, meant that data for 2016/17 financial year was not available. As cost recovery can only be assessed over several years, using comparable data for each year, the review was unable to determine whether cost recovery has been achieved. Nevertheless, the review has provided a valuable snapshot of costs and revenue.

39. Most councils engaged with the initial survey (60 councils). The council response rate for the follow-up online surveys was lower (21 councils). Eight licensing inspectors and seven Medical Officers of Health replied to the online surveys. For individual questions within the surveys, response rates were lower. It is also noted that the responses to some of the survey questions may be impacted by the way the question was interpreted in relation to a particular locality.
40. Section 199 annual reports could only be located for 55 councils, and Regulation 19 reports for nine councils.

### Data variability and comparability

41. Councils have taken different approaches to the recording of revenue and expenditure, in accordance with their own financial policies and systems. This limited the utility of comparisons between councils, and trend analysis based on, for example, geography, population size, or population density. In addition, in the course of further engagement, some councils reviewed and adjusted their reported figures. The figures given in the initial survey were used for the analysis.
42. All surveys relied on councils' reporting of their licensing statistics, revenue and expenditure. No independent validation of the data was carried out. The degree to which cost and revenue figures were broken up into types or categories varied significantly.

### Estimates and proxies

43. Many responses involved a considerable degree of estimation. For example, councils were asked to estimate their average cost for administration and enforcement activities per manager's certificate. There is inevitably a degree of subjectivity attached to such estimations.
44. Several councils also noted difficulties in separating alcohol licensing related costs from other regulatory costs, particularly where various functions were performed by the same personnel.
45. In order to assess the current risk framework, this review also considered the regulatory effort related to licence types, estimated via ARLA enforcement activity and New Zealand Police Alco-link data. It also used trends in ARLA enforcement and New Zealand Police Alco-link data as proxy indicators of alcohol-related harm. The assumption is that the level of compliance is indicative of the level of alcohol-related harm.
46. A similar approach to use New Zealand Police data for the estimation of regulatory cost/effort was taken in 2012. This is partially driven by the availability of a reasonable amount of national data, and the ability to link it to premises types. However, this data has its own limitations, for example it is not available for off-licences.
47. There are other aspects of alcohol-related harm, such as the immediate and long-term health consequences of excessive alcohol consumption or alcohol-related offences like drink-driving which have not been considered in this report. The Ministry of Health is in the process of developing systems to collect national data on emergency department presentations linked to alcohol consumption. This data may be available to help inform reviews in the future.

## Changes in data sets over time

48. Changes over time mean there are some limitations with the New Zealand Police Alco-link data. The proportion of “Last Drink” surveys where alcohol consumption was recorded as ‘not known’ has gone up significantly since 2013/14. Possible reasons identified for this were:
- changes in officers’ recording practices
  - data from 2013/14 being sourced differently, and
  - a shift in the types of offences proceeded against over time and the time at which the Police apprehended the individual, making it difficult to determine whether alcohol had been consumed.

## Differences in classification categories

49. The datasets used applied mostly to on-licensed premises and used different categorisations for premises types than those set out in the Regulations. This limited the scope of the analysis to some licences.

# Objective 1: Cost recovery

## Summary

- It is too early to determine whether cost recovery is being consistently achieved by councils or by ARLA. Lack of time-series data has limited assessment of this objective.
- Councils' cost allocations, and cost recovery rates for individual councils over time, appear to vary significantly between councils. These differences make comparisons difficult.
- Using councils' reported cost and revenue data for 2015/16:
  - at a *collective* level (cumulative costs over revenue), the cost recovery rate was 108 percent
  - there were significant variations in *individual* councils' cost recovery rates, from under 50 percent to over 200 percent. No clear patterns were identified to explain these differences.
- The initial indication is that ARLA's revenue is lower than its costs.
- The composition of ARLA's workload differs from initial forecasts, which may have impacted on its cost profile.

## The cost recovery objective

“To recover the total reasonable costs incurred by local councils and ARLA in administering the alcohol licensing system”

50. This chapter summarises the review's findings on the extent to which cost recovery is being achieved by local councils and ARLA. See the Treasury's "Guidelines for Setting Charges in the Public Sector" for a fuller discussion on the principles of effectiveness, efficiency, transparency and accountability which underpin this objective.
51. The Act provides for licensing fees to be set for the functions and activities of councils, District Licensing Committees, local inspectors, and ARLA. The Act allows for total costs to be recovered, as far as is practicable. Other general alcohol-related costs, such as the cost of developing local alcohol policies, are not covered by the licensing fees.
52. The Regulations support objective 1 by:
  - setting the default fees at a level that, on a national basis, would be expected to cover the cost of councils in administering the licensing system
  - setting the fees payable to ARLA at a level estimated to cover its projected costs
  - providing for transparency and accountability through a requirement for councils to annually report on fees income and expenditure (Regulation 19); and

- empowering councils to set their own fees through bylaw, within the national cost/risk framework, to enable them to achieve full cost recovery.

## Review Findings: Local Councils

### 2015/16 data on cost and revenue

53. Data provided by 51 councils (76 percent) for the financial year 2015/16 provided a snapshot of annual revenue and costs for that year. To properly determine cost recovery, several years of comparable data is required, so the extent of an individual council's, or councils' collective, cost recovery cannot be determined from this one year of data.
54. Despite this, and the other limitations discussed earlier, the review used the 2015/16 data to identify if there were any early patterns emerging in the impact of the fee regime at local level. This section discusses the analysis undertaken on this data and the high-level findings, drawing on both the quantitative data provided, and the qualitative responses to the online surveys and other feedback.
55. For the *collective* of the 51 councils that provided data, the 2015/16 reported revenue was just over \$15.9 million, while costs sat at \$14.8 million. This is a national cost recovery rate of 108 percent. This may indicate that, overall, revenue collected under the regime is not grossly in excess of costs, particularly in light of other findings that actual costs may be underestimated.

### Analysis of variations in cost recovery rates

56. There were significant variations in *individual* councils' annual cost recovery rates (revenue over costs) based on the reported data for 2015/16, ranging from under 50 percent to over 200 percent.
57. No clear patterns were identified to explain the variations in cost recovery rates. The data analysis looked at factors such as the number and types of licences issued, geography, location, population size and population density. For example, the proportion of revenue derived from manager's certificates varied significantly across the country. However, no correlation between these proportions and costs, or cost recovery rates was identified.
58. The data suggests that all four councils with populations exceeding 150,000 people and six out of eight councils with populations under 10,000 achieved cost recovery. Also, seven out of ten high population density councils and six out of eight low density councils achieved cost recovery.<sup>6</sup> However, no overall trend across all councils could be discerned between population size or density and cost recovery rates.
59. The analysis looked at the patterns in licence types. There were negligible differences between councils with the highest and lowest cost recovery proportions for 2015/16 in terms of their ratios of on- to off-licences. Some patterns were identified with councils with the higher ratios of on- to club licences appearing to have, on average, higher rates of cost recovery than councils with the lowest ratios of on- to club licences. However, there are significant variations

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<sup>6</sup> High density: more than 100 people/km<sup>2</sup>, low density: less than 2 people/km<sup>2</sup>

of on- to club licences ratios within the relevant groups. Therefore, this pattern was inconclusive. Variations by type of cost are discussed at paragraph 70, variations in relation to special licences at paragraph 156.

60. Cost recovery rates of individual councils can also fluctuate between years. An analysis of the cost/revenue data from a small number of Regulation 19 reports, compared with the survey data of 2015/16 costs and revenue suggests this annual fluctuation could be as high as 20 percentage points. This is not surprising, particularly in the early years of the regime as revenue flows were expected to be uneven, until all licence holders are fully under the new regime.
61. Councils identified a range of possible explanations for differences between councils in cost and revenue figures. For example, some councils have few or no District Licencing Committee (DLC) hearings, or have lower DLC costs due to members holding other roles within the council and not receiving separate fees for DLC duties.
62. Other councils have used the discretion provided in the Regulations to reduce the licence fee categories for certain licence holders quite extensively, reducing their revenue.

### Cost and fee levels

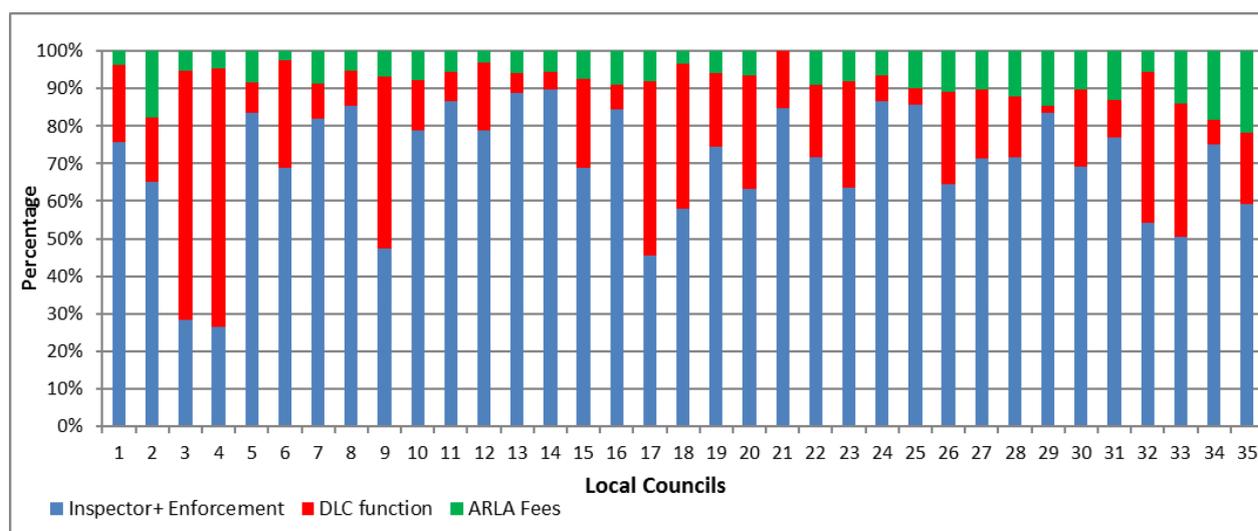
63. Most councils noted that the new regime has significantly increased costs, particularly in administering applications. Other requirements, such as annual reporting on cost and revenue, were also noted as resource intensive.
64. Some councils noted they had introduced innovations to improve administrative efficiency and reduce costs. For example, several councils hold pre-lodgement interviews to ensure all relevant information is provided with applications. Other councils have developed processes to allow DLC hearings to be completed electronically, particularly for non-opposed applications for temporary authorities.
65. Several councils reported an increase in costs due to more objections and more DLC hearings. The cost of DLC hearings is funded through the general licensing fees. Some stakeholders noted the high cost of hearings, and suggested the introduction of a separate hearing fee. A recent ARLA practice direction requires the DLC to provide a transcript of the relevant hearing where decisions are appealed to ARLA. This was noted as likely to increase DLC costs going forward.
66. The issue of what constitutes 'reasonable costs' under objective 1 was raised by several submitters. However, there was no consistent view on this. Submissions largely reflected differences in perspectives on the level of resource required to administer the regime.
67. Several stakeholders also noted concerns about the fee levels for small businesses and clubs.

### Variations in types of cost incurred or reported

68. Councils have different approaches to how they calculate costs, and which costs they allocate to the licensing fees regime (e.g. cost of bylaws, calculation of overheads). This is a significant reason why great caution should be used in drawing comparisons between councils using the 2015/16 self-reported figures, as these may not necessarily be comparable.

69. One example of this is the differences in how councils classify costs, for example between inspector costs and enforcement activities, which can involve the same personnel. Several councils have licensing or enforcement teams that cover a wide range of activities, such as environmental health and food safety, and so have difficulty in distinguishing the alcohol licensing-related costs from their other regulatory expenditure.
70. Figure 1 shows the proportion of costs by source, using councils' own cost allocations, ordered from councils with the lowest to highest 2015/16 cost recovery rates.

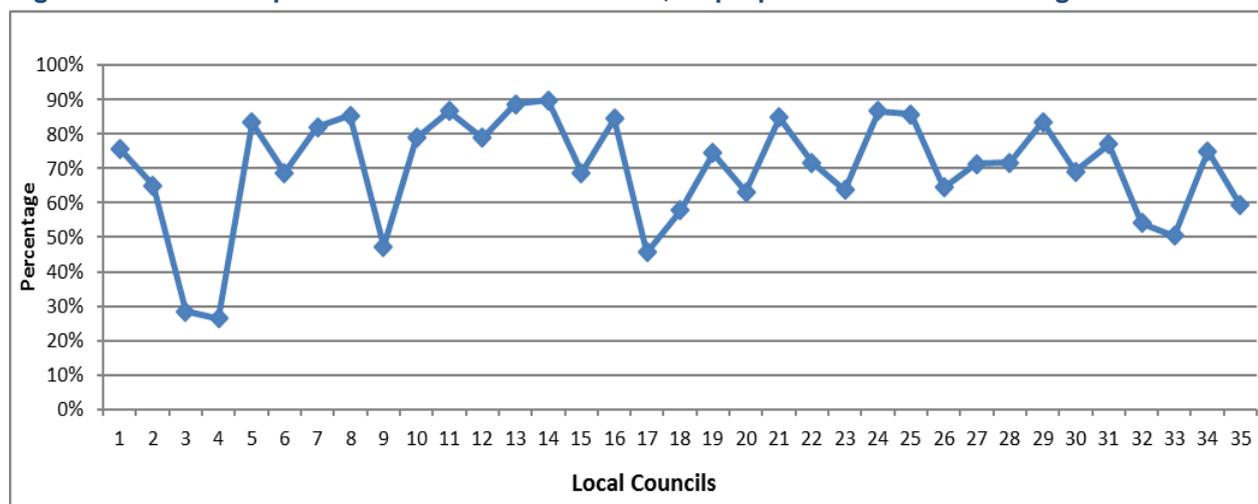
**Figure 1: 2015/16 Total licencing costs, proportioned by type of cost**



Source: Data provided by councils in 2017. Ordered from lowest to highest cost recovery rates

71. Figure 2 shows just inspector and enforcement costs, as a percentage of total licensing costs. Both figures indicate a significant variability in how costs are incurred or allocated.

**Figure 2: 2015/16 Inspectors' and enforcement cost, as proportion of total licensing costs**



Source: Data provided by councils in 2017. Ordered from lowest to highest cost recovery rates

72. Setting aside limitations in this data, councils with the highest cost recovery rates, on average, showed a slightly higher proportion of inspector and enforcement costs, and also a smaller

proportion of DLC costs, compared with councils with the lowest cost recovery rates. However, this pattern is inconclusive as both of those groups' averages sit below the overall average, and there is a high variability within the groups.

73. No clear patterns could be discerned between the proportioned costs reported by councils and their location, population size or density.

## Special and BYO licences

74. Special licences were identified as one area where cost recovery is difficult to achieve, due to the variations in the types of events for which these licences apply. For example, a class 1 special licence applies to a large event with patronage of over 400 people. This classification covers a range of events from for example a one-day indoor trade show with 500 attendees, to a three-day outdoor festival with thousands of attendees.
75. Councils estimated the regulatory costs for these licences were generally in excess of the current default fee amounts. Cost estimates ranged from \$75 to \$3,600 for costs related to class 1 special licences (fee \$500), and \$63 to \$670 for costs associated with class 2 and 3 licences (fees \$180 and \$55).
76. Similarly, several stakeholders mentioned that administering BYO licences required a high regulatory effort, that was not recuperated in the fees charged.

## Adoption of bylaws

77. Two councils reported adopting bylaws in relation to alcohol licensing fees (see paragraph 159). Bylaws allow councils to adapt the fees to meet their local expenditure requirements. Some councils have indicated they are considering a bylaw. Some councils have also made a policy decision to partly fund their alcohol licensing system through general rates, and are not aiming to achieve total cost recovery. For those councils, the objective of cost recovery will only ever be partially achieved.

## Conclusion

78. The data and feedback received provides a valuable snapshot of the costs incurred and revenue received by councils, and has highlighted some areas where improvements to data recording are necessary to support future cost recovery assessments. The lack of data on cost recovery appears to also be one reason why few councils have developed their own fee rates, using the bylaw making power. This is discussed further under objective 3.

## Cost recovery rates

79. At this stage, the cost recovery objective cannot be fully assessed because reliable data over several years is not available. The 2015/16 data indicated that, at a *collective* level, cost recovery is broadly being achieved. At *individual* council level, there appears to be wide variations in cost recovery rates. The specific reasons for this are not clear, although this finding is consistent with the 2013 expectation of variations in costs of councils.
80. There is no evidence that indicates the current default fees are too high or too low at a national level, nor that significant over-recovery of costs is occurring overall.

## Cost allocation

81. There is some evidence that councils may not be allocating all possible costs to the regime and that there are significant differences in how these costs are being classified.

## Data collection

82. Ensuring that the necessary cost and revenue information is available, and that costs are identified and attributed to the appropriate activities in a consistent way, is critical to the operation of the cost recovery regime. At present, there is no national guidance or reporting template for the fees regime, and compliance with the annual reporting requirements in the Regulations is variable.
83. As a first step, it would be beneficial for further work to be undertaken to enable councils to collect both cost and revenue data in a consistent and comparable way. The comparability of this information provided in the annual Regulation 19 reports could be improved to make these more valuable for all stakeholders and improve transparency and accountability. This will also assist councils to undertake their own assessments of their individual cost recovery profiles, and consider setting their own fee rates accordingly.
84. This data needs to be collected over several years to support a more comprehensive assessment of the cost recovery objective.

## Review Findings: ARLA

### Cost and revenue data

85. It was not possible to separate and identify all ARLA-related costs and revenue from the licensing regime for the last few years. This is partially because many of ARLA's administrative functions are managed through the Ministry's shared support unit, and ARLA-specific costs and overheads have not been allocated separately.
86. Without this data, the review could not assess whether ARLA has achieved cost recovery over the review period. However, the initial indications are that the revenue received by ARLA is lower than the costs incurred to date.

### ARLA workload

87. ARLA's workload composition has developed differently from the projections in 2012, and there is still considerable uncertainty about its future workload. The original workload projections and the actual number of ARLA applications and appeals received (by year of receipt) in the three years to June 2016, are summarised in Appendix 3: ARLA Workload.
88. There are significantly more appeals, particularly against local alcohol policies (LAPs) than originally estimated. These appeals have continued to be lodged over a longer period than anticipated. The original forecast was for LAP related work to fall away after an initial peak. On the other hand, ARLA has received fewer licence application referrals from DLCs in 2015 and 2016 than forecast.
89. The number of enforcement applications has decreased continuously since 2014. It is now broadly in line with the estimated 'low' caseload levels from 2012.

### ARLA appeals fee

90. The Regulations set the fees for appeals to ARLA at \$450. The appeals are either against a DLC licensing decision or against a LAP. These two types of appeals are very different in nature. When the fee was set in 2013 it was estimated to cover about 10 percent of the actual cost of an average proceeding. The remainder was to be met from the ARLA portion of the general licensing fees paid by licensees.
91. Some community stakeholders were concerned that the \$450 appeal fee was too high, and could be a barrier to making an appeal. It was unclear to what extent though the appeal fee itself was the main concern though, given the legal and other costs associated with appeals.
92. Appeals fees for other comparable tribunals range from no fee through to \$600+. Compared to other tribunals, the ARLA fee is toward the upper end of the spectrum.

### Length of ARLA proceedings

93. Some stakeholders commented on ARLA resourcing and the length of time taken for appeals and other matters to be considered by ARLA.
94. In its 2016/17 annual report ARLA notes that the average time to disposal, excluding LAP appeals, had reduced from 150 days in 2015 to 117 days in 2017. ARLA anticipates that the

remaining LAP appeals will be heard in 2018, which will free further resources for other non-LAP related matters.

## **Conclusion**

95. There is insufficient data to assess whether ARLA is achieving cost recovery. ARLA's workload composition is different from the original forecasts, and it is still difficult to predict.
96. Changes to ARLA's financial recording systems may also be needed to allow ARLA related costs and revenue to be more easily identified.
97. Cost recovery should be reassessed, including whether any changes to specific fees are necessary, once ARLA's workload has settled and projections for its future workload and resourcing requirements can be made.

## Objective 2: Regulatory effort and cost/risk factors

### Summary

- The current cost/risk factors are valid indicators of regulatory effort.
- Evidence to assess the relative risk weightings within and between factors is less clear, but there is nothing to indicate that the current weightings are not appropriate.

### The regulatory effort and cost/risk factors objective

“To ensure that those who create the greatest need for regulatory effort bear the commensurate costs”

98. This chapter summarises the review’s findings on the extent to which the existing risk factors are appropriate indicators of regulatory effort. See the Treasury’s 2017 “Guidelines for Setting Charges in the Public Sector” for a fuller discussion on the principles of equity, effectiveness, efficiency and simplicity which underpin this objective.
99. Objective 2 reflects the principle that the costs of the licensing system should be attributed, as far as is possible, to those who create that cost. Licence categories that generate the most regulatory effort are assumed to create the greatest cost.
100. The Regulations support objective 2 by:
  - setting a risk framework for on-, off- and club licences
  - using risk factors to rate particular types of licensed premises or activities, as a proxy estimate of the regulatory effort in those types of premises or activities
  - setting national default fees for the resulting risk categories and other licences; and
  - empowering councils to make bylaws to adjust the fees according to local circumstances, or apply discretionary discounts to the cost/risk rating of certain premises or events; councils cannot, however, change the risk framework.

## Review Findings

### Assessment of regulatory effort

101. The review assessed the regulatory effort of councils, licensing inspectors, Medical Officers of Health, ARLA and New Zealand Police by reference to the three risk factors set out in the Regulations.
102. Responses from councils, licensing inspectors and Medical Officers of Health in surveys indicated considerable variability on where they direct their regulatory efforts. Overall, their feedback broadly supports the existing framework, with the three existing risk factors being considered relevant indicators of the regulatory effort for on-, off- and club licences.
103. New Zealand Police and ARLA data was analysed. Key findings on the influence of the three existing risk factors on the level of regulatory effort are summarised below.

### Influence of premises type

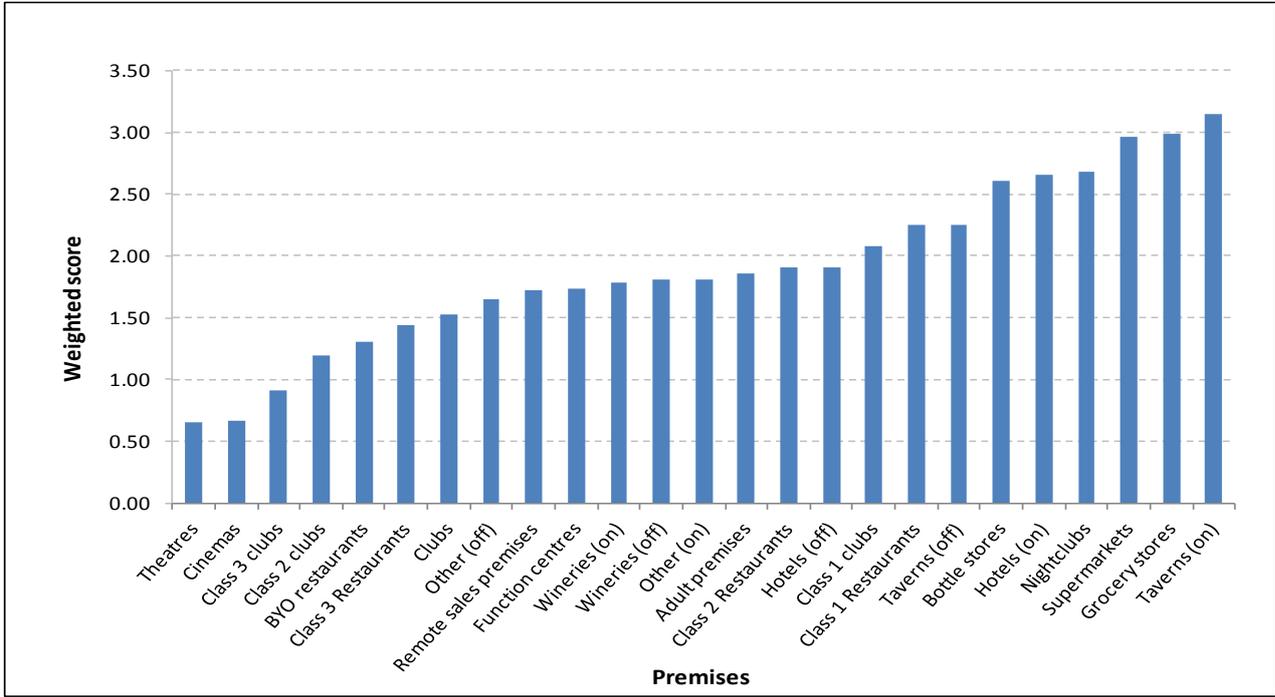
#### Local councils, licensing inspectors and Medical Officers of Health

104. Figure 3 shows the responses of 21 councils (31 percent) when asked, via an online survey, to indicate the level of effort and cost applied to different premises types, from very low effort/cost to very high effort/cost. For details of the surveys, see appendix 4. Councils' responses were weighted by size, using the number of FTE licensing inspectors given.<sup>7</sup>

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<sup>7</sup> As a further sensitivity check, the same analysis was run excluding Auckland Council data, given the high number of licensing inspectors employed by Auckland. This altered some of the absolute weightings shown in figure 5 for premises at the lower end of the scale, such as theatres, cinemas and BYO restaurants, but it did not materially impact on the overall trend of weightings at the higher end of the scale.

**Figure 3: Effort and cost applied to premises reported by councils, weighted by number of FTE licensing inspectors (21 respondents)**

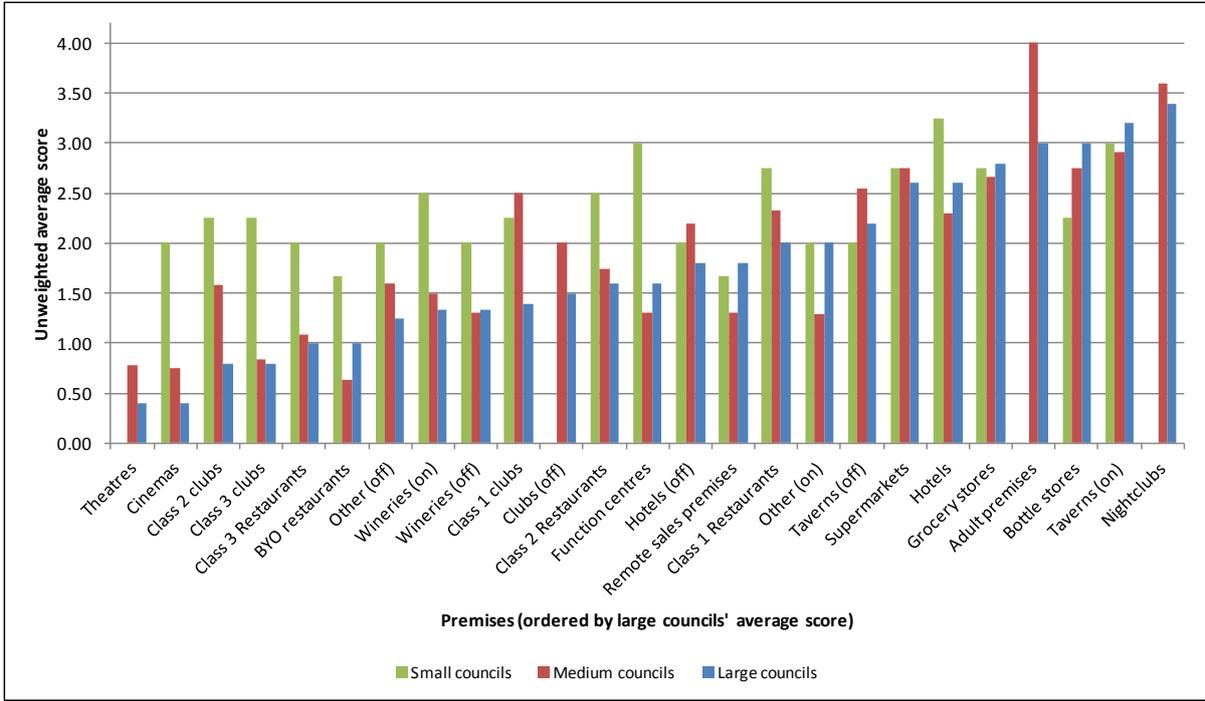


Scale: 0= very low effort/cost, 4= very high effort/cost

105. This online survey repeated a similar survey from 2013, which informed the development of the new fees regime.<sup>8</sup> The 2017 trends were similar to the 2013 results, with taverns and bottle stores remaining areas of intensive resource focus for councils, while theatres, cinemas and BYO restaurants remain areas of lesser focus. Compared to the 2013 results, the 2017 respondents reported that relatively more resources were targeted at function centres, wineries, hotels, grocery stores and supermarkets. The reasons for this were not clear.
106. Figure 4 shows the same responses, split out by population size, using the estimated resident population of councils as at 30 June 2016.

<sup>8</sup> See page 77 of the 2013 public consultation paper.

**Figure 4: Level of effort and cost applied reported by councils for types of premises, by population size (21 respondents)**



Scale: 0 = very low effort/cost, 4= very high effort/cost  
 Note: 4 small councils (less than 20,000 population), 12 medium (20,000-100,000), 5 large (over 100,000)

107. The analysis indicates that on-licence taverns, grocery stores and supermarkets are a resource intensive premises types across all councils. Large and medium councils appear to direct more regulatory effort (cost) towards bottle stores, nightclubs and adult premises. Small councils appear to direct more effort towards function centres, on-licence hotels, cinemas and restaurants than medium or large councils. This may reflect the number of each premises type in councils of different sizes; for example, none of the smaller councils who responded to the online survey had nightclubs in their area. Smaller councils also appear to spread their efforts more evenly across all types of premises.

108. The online survey asked licensing inspectors (eight responses) and Medical Officers of Health (seven responses) the same question about regulatory efforts. These are summarised at Appendix 4. Their estimated levels of cost/effort by premises type followed a similar trend to that of the councils. However due to the low level of responses, these were not further analysed, and any results should be treated as indicative only.

## ARLA enforcement and New Zealand Police Alco-link data

109. As noted at paragraph 45, the review used the ARLA enforcement activity and New Zealand Police Alco-link data as a proxy indicator for the regulatory effort related to each licence type.

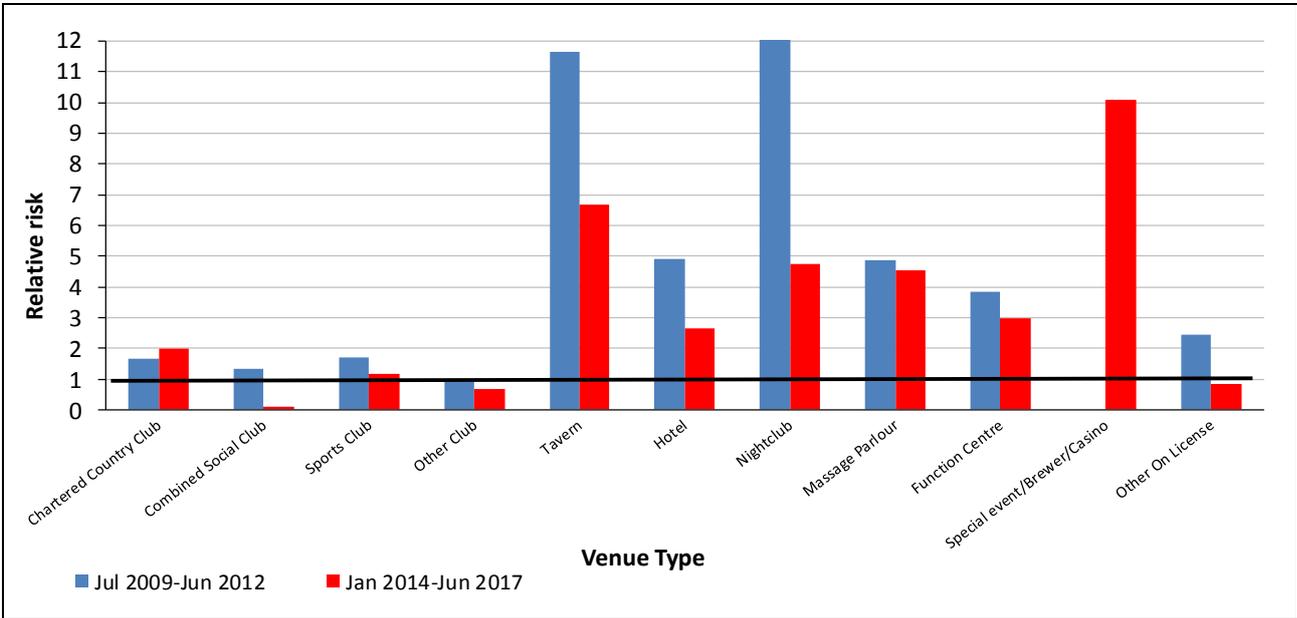
### On-licence premises and clubs

110. New Zealand Police Alco-link data was matched with on-licence premises types. Details of the Alco-Link surveys are explained at paragraph 28.

111. There were 11,035 "Last Drink" surveys attributable to on- or club-licensed premises in the period 1 January 2014 to 30 June 2017. Of these, 9,702 "Last Drink" surveys (88 percent of total) could be matched to on- and club-licensed premises from the ARLA table of licensees, and where closing times were known.

112. These 9,702 survey responses are referred in this report as "attributable Last Drink" surveys. Attributable "Last Drink" surveys associated with licensed premises are those that can be subjectively associated with the responsibility of licensed premises and managers. These offences include homicides, causing injury, sexual offences, robbery/extortion, weapon offences, property damage, public disorder, resisting, obstructing or hindering Police and breaches of the peace. Traffic offences are excluded.

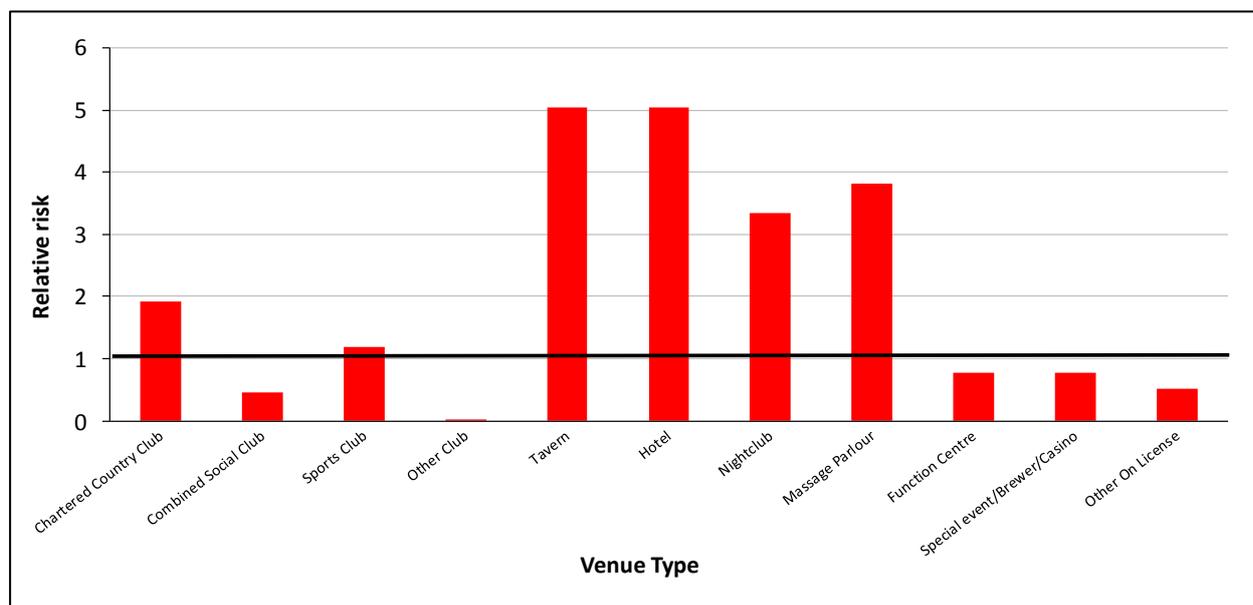
**Figure 5: Comparison of relative risks for attributable "Last Drink" surveys, for Jul 2009-Jun 2012 and Jan 2014-Jun 2017, by venue type**



Source: New Zealand Police Alco-link and ARLA/Ministry of Justice data  
 Note 1: Relative reference category = restaurants (relative risk of 1)  
 Note 2: The special event/brewer/casino category was not used in the Jul 2009-Jun 2012 period

113. Figure 5 shows the relative risks for attributable “Last Drink” surveys, by on-licence premises type. The analysis used restaurants as the reference category (relative risk of 1). Relative risks were calculated using data for the period 1 January 2014 to 30 June 2017, and compared with relative risks calculated using data for the period 1 July 2009 to 30 June 2012 (as used in calculating the original fee settings).
114. Figure 5 indicates the relative risk was highest for the combined category of special events/brewer/casino, taverns, nightclubs and message parlours. There are also relatively high risk rates for hotels and function centres.
115. Figure 6 shows the ARLA enforcement data, matched with on-licence premises types, to show which premises are more likely to have enforcement holdings against them. Figure 6 also supports Figure 5 in finding a higher risk rating for these premises types, with the exception of the combined category of special events/brewer/casino function centres.<sup>9</sup>
116. The Police Alco-link data and ARLA data does not allow for clear findings on all premises types, due to premises being categorised differently in the Police and ARLA datasets than in the Regulations. For example, the data does not record a distinction according to the three classes of restaurants or clubs.

**Figure 6: Comparison of relative risks; on-licence or club premises with enforcement holdings Jan 2014-Jun 2017, by venue type**



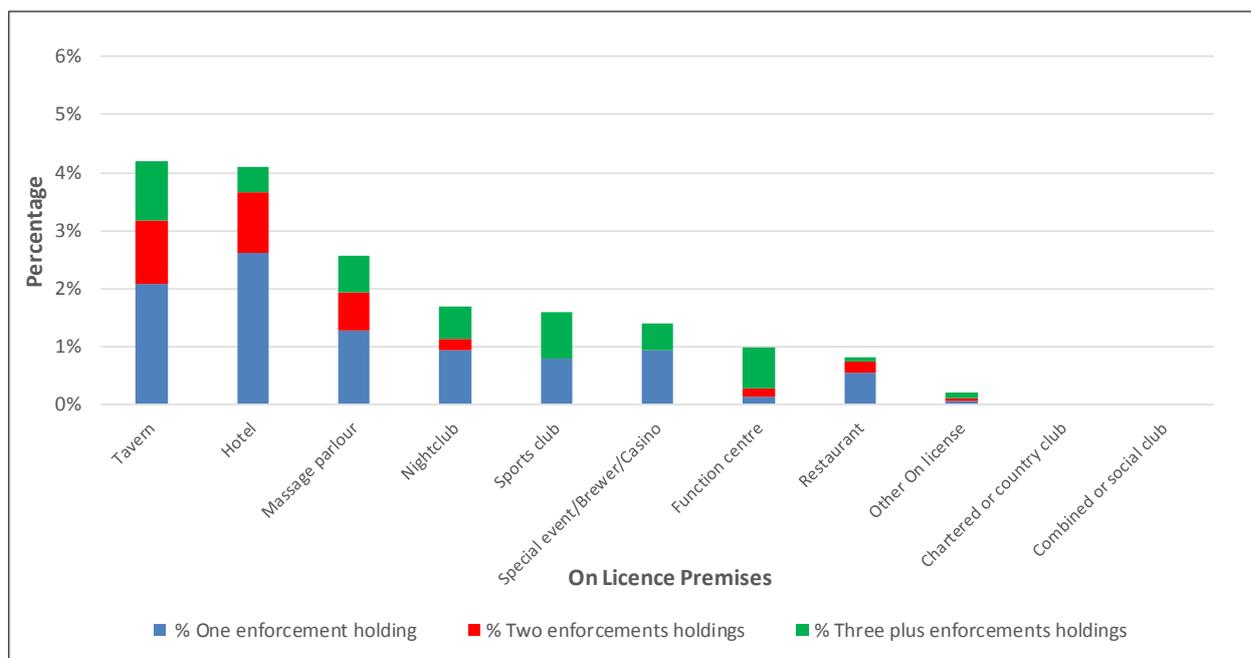
Source: ARLA and Ministry of Justice data

Note: Relative reference category = restaurants (relative risk of 1)

<sup>9</sup> This includes venue types (as used by ARLA) of Brewer, Taste, Caterer Endorsed, Conference Centre, and Casinos.

117. Figure 7 shows the percentage of licensees of each category that have had at least one ARLA enforcement holding against them. Overall, only 1.8 percent of on-licence premises have enforcement holdings, while only 0.6 percent of all club licences show any enforcement holdings.

**Figure 7: Proportion of on-licence premises, by type, with ARLA enforcement holdings since Sept 2012**



Source: ARLA and Ministry of Justice data

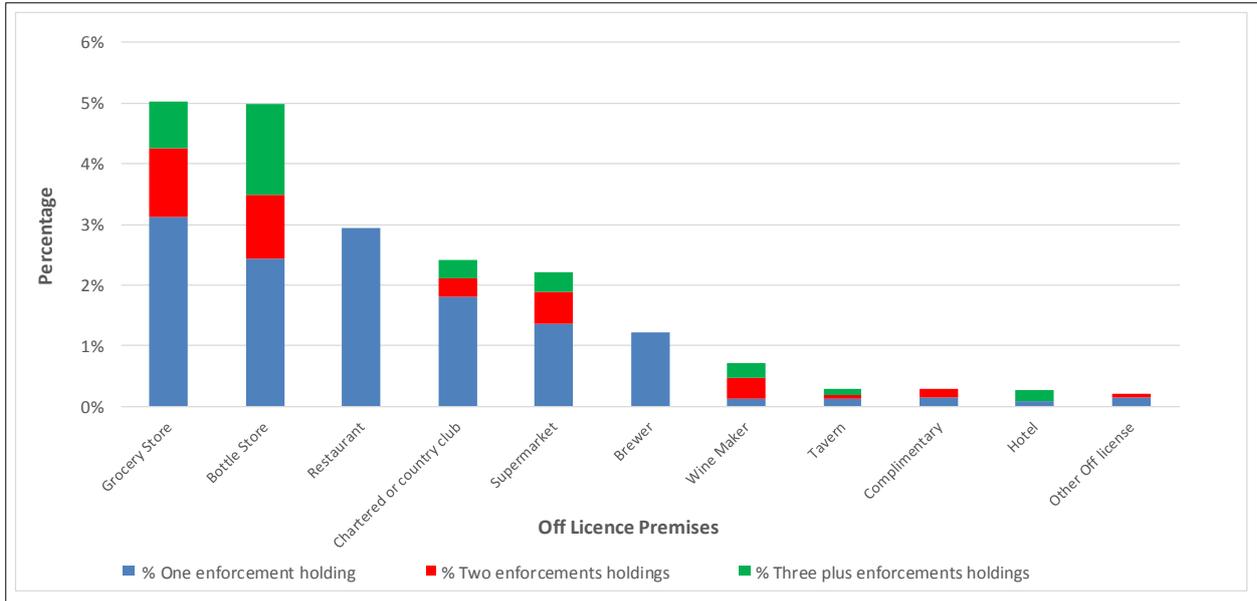
### Off-licences

118. Alco-link data was not available for off-licences, since the link to off-licences is harder to establish and record. However, ARLA enforcement data was matched with off-licences.

119. Figure 8 shows the percentage of licensees of each category that have had at least one ARLA enforcement holding against them. Overall 2.5 percent of off-licences have enforcement holdings (compared to 1.8 percent of on-licences).

120. Figure 8 indicates that bottle stores, grocery stores, restaurants, chartered or country clubs, and supermarkets have the highest rates of enforcements for off-licences, with bottle stores and grocery stores being the most likely to have had three or more enforcements.

**Figure 8: Proportion of off-licence premises, by type, with ARLA enforcement holdings since Sept 2012**



Source: ARLA and Ministry of Justice data

## Influence of closing time

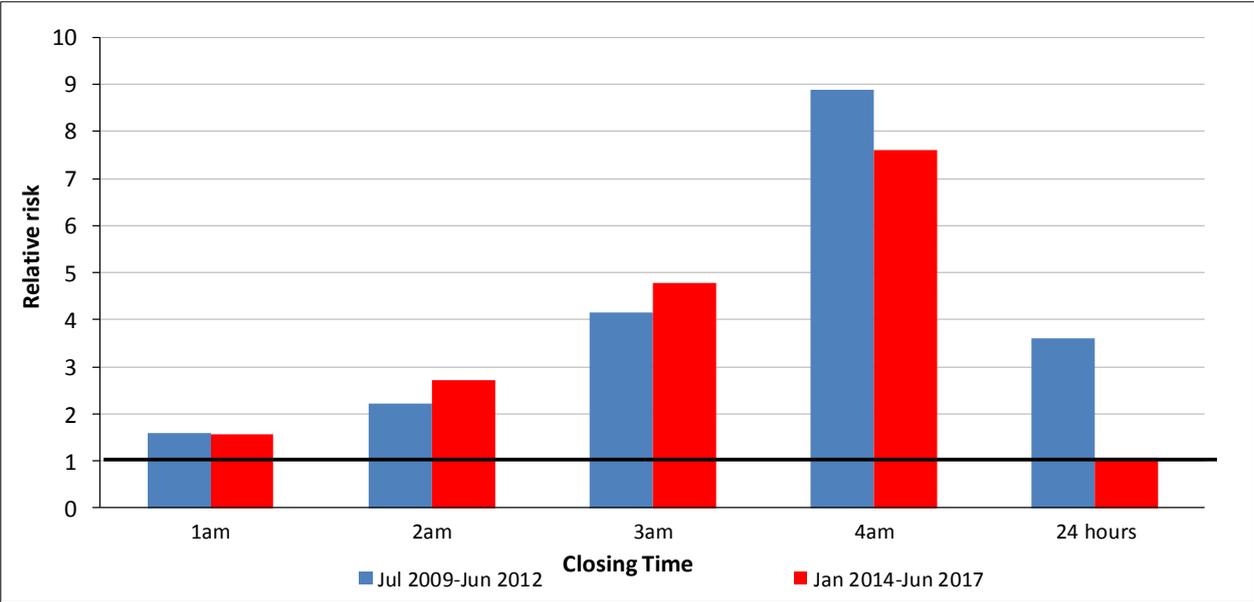
### Local councils, licensing inspectors and Medical Officers of Health

- 121. The online survey asked councils, licensing inspectors and Medical Officers of Health about the influence of closing time as a factor in their monitoring and enforcement resource allocation. These responses are tabulated in Appendix 4: Online Survey Responses.
- 122. The responses from councils indicated different approaches, with just under three-quarters of respondents indicating that closing time had some influence on their monitoring and enforcement activities.
- 123. Closing time appears to be more relevant in enforcement of on-licence than off-licence premises. One possible reason for this may be that off-licence monitoring activities tend to be less affected by closing time. For example, off-licence monitoring tends to focus on restrictions on display areas and on under-age purchasing, through controlled purchasing operations.

### ARLA enforcement holdings and New Zealand Police Alco-link data

- 124. As noted at paragraph 45, the review used the ARLA enforcement holdings and New Zealand Police Alco-link data as a proxy indicator for the regulatory effort related to each licence type.
- 125. Police Alco-link data and ARLA enforcement holdings data was matched with on-licence premises' latest closing hours. This data only relates to on-licence premises; matching was not possible for off-licences.

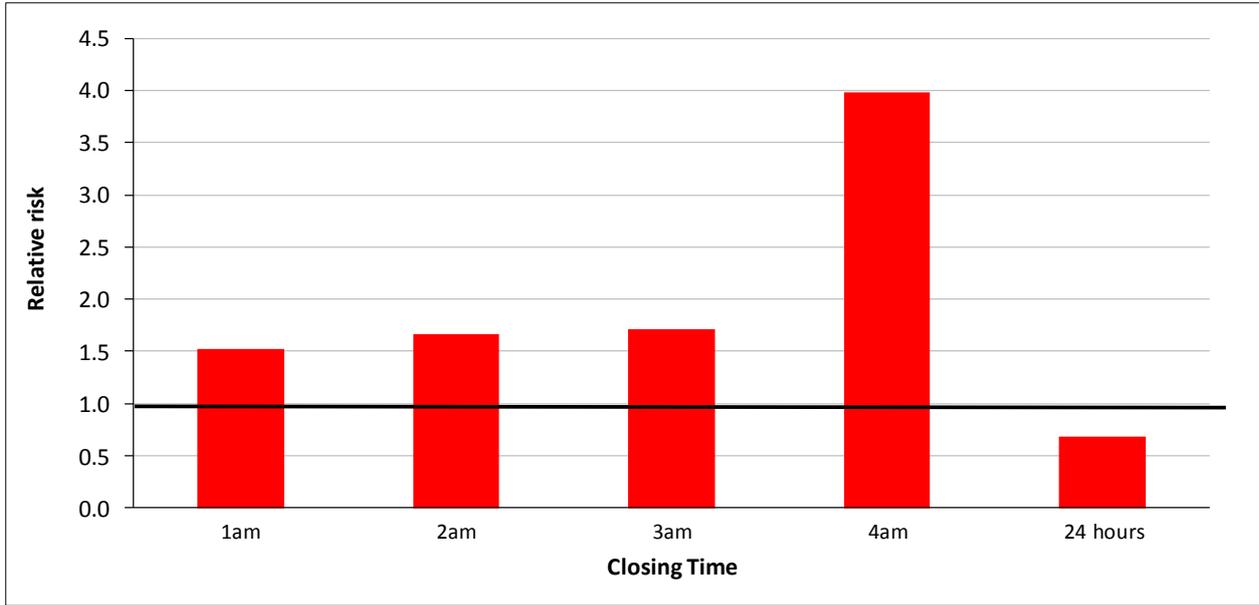
**Figure 9: Comparison of relative risks for attributable “Last Drink” surveys for Jul 2009-Jun 2012 and Jan 2014-Jun 2017, by latest closing time**



Source: New Zealand Police Alco-link and ARLA/Ministry of Justice data  
 Note 1: The relative reference category is premises with a closing time 10pm-midnight (relative risk of 1).  
 Note 2: Very few high-risk premises have a 24-hour licence in the Jan 2014 - June 2017 dataset.

- 126. Figure 9 shows the relative risks for attributable “Last Drink” surveys (see paragraph 112), while Figure 10 shows the same analysis using ARLA enforcement holdings data. In both cases, premises with a closing time of 10pm – midnight (relative risk of 1) were used as the reference category. Both charts indicate a clear correlation between later closing hours (after midnight) and increased regulatory effort.
- 127. Figure 9 also shows that relative risks for all closing times for the period January 2014 to June 2017 were similar to those observed for the period from July 2009 to June 2012. One exception is premises which had a 24-hour licence. This change is assumed to relate to changes in the types of premises which have 24-hour licences. Very few high-risk premises now have a 24-hour licence.

**Figure 10: Comparison of relative risks for whether premises had an ARLA enforcement holding Jan 2014-2017, by latest closing time**



Source: ARLA and Ministry of Justice data  
 Note: The relative reference category is premises with a closing time 10pm-midnight (relative risk of 1).

## **Influence of previous ARLA enforcement holdings**

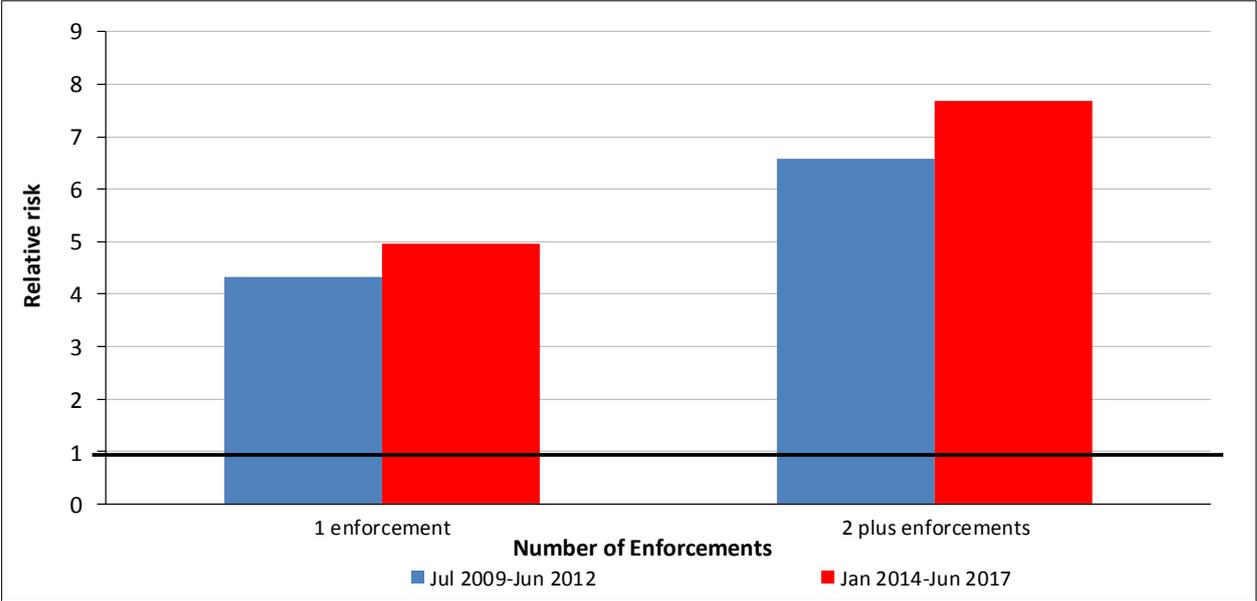
### **Local councils, licensing inspectors and Medical Officers of Health**

- 128. Councils, licensing inspectors and Medical Officers of Health were asked about the influence of previous ARLA enforcement holdings as a factor in their monitoring and enforcement resource allocation. These responses are tabulated in Appendix 4: Online Survey Responses.
- 129. Previous enforcement holdings were considered a relevant factor in determining where to direct future monitoring and enforcement resource by the majority of councils and licensing inspectors, and, to a lesser extent, by Medical Officers of Health.

### **ARLA enforcement holdings and New Zealand Police Alco-link data**

- 130. As noted at paragraph 45, the review used ARLA enforcement holdings and New Zealand Police Alco-link data as a proxy indicator for the regulatory effort related to each licence type.
- 131. Alco-link data was matched with on-licence premises’ previous enforcement holdings. Figure 11 shows the relative risks for attributable “Last Drink” surveys (see paragraph 110) based on previous ARLA enforcement holdings.
- 132. The reference category was premises with no previous enforcements (relative risk of 1). As noted at paragraph 117, overall, only 1.8 percent of on-licence premises have any ARLA enforcement holdings.

**Figure 11: Comparison of relative risks for attributable “Last Drink” surveys for Jul 2009-Jun 2012 and Jan 2014-Jun 2017, by number of ARLA enforcements**



Source: New Zealand Police and ARLA/Ministry of Justice data  
 Note: Relative reference category = premises with no previous enforcement holdings (relative risk of 1)

- 133. The relative risks for premises which have had enforcement holdings against them are substantially higher than those with no previous enforcements. Further, the difference in relative risk between premises with two or more previous enforcements is larger than that for premises with one previous enforcement, using data from January 2014 to June 2017. This result is similar to that observed for the period from July 2009 to June 2012.
- 134. The relevance of previous ARLA enforcement holdings as a risk factor was noted by some as potentially inequitable. For example, due to timing of enforcement holdings, they may not reflect the current licence holders’ practices when the next licence fee is due. This issue was also canvassed in the 2013 consultation document, with the period of holdings taken into consideration being reduced from three years to 18 months to partially account for this.

**Literature Review**

- 135. The review of current literature confirmed the earlier research studies, which had identified a strong relationship between later trading hours and higher levels of regulatory effort, or harm.
- 136. Some of the international research showed a strong relationship between on-licence premises and alcohol-related harm. However, there were no specific studies on particular premises types, for example hotels versus taverns, that could help assess the New Zealand framework. The research also indicated there was usually an overlap between type of premises and other variables such as trading hours and outlet location or density.
- 137. Overall, the stronger evidence for on-licences is partly due to more studies focussing on on-licences rather than off-licences. The evidence base for off-licences is still developing so it is not possible to draw as strong a relationship between off-licences and regulatory effort.

138. There are few studies on compliance history, but one study did show that previous compliance history will increase the likelihood of further enforcement activity.

139. A summary and list of the studies considered is at Appendix 5: Literature Review.

## Other risk factors

140. Both the literature review and stakeholder submissions identified other potential risk factors. These are noted here for potential future consideration. The timing and scope of this review did not allow for an in-depth analysis of their relevance or applicability in New Zealand, although several of the suggested factors were canvassed in the 2013 public consultation on the design of the current framework. Some factors, such as location or density, may be more easily addressed through local alcohol policies, rather than a licensing fees framework.

141. Suggested other factors include:

- location in late night precinct
- type of patronage
- time of year and coordination with New Zealand Police activities
- outlet location or density; and
- volumes of alcohol sold.

## Miscellaneous findings

### Use of discretionary discounts and bylaws

142. Several councils used the discretion provided in the Regulations to reduce the cost/risk rating of some premises or special licence holders. The basis on which this discretion was exercised varied between councils, and was often but not necessarily related to the anticipated administrative or regulatory effort involved with a particular licence. Where this practice aligns with the actual or expected regulatory effort, it supports the achievement of objective 2.

143. As noted at paragraph 77, two responding councils have set fees through local bylaws.

### Relevance of cost/risk rating to certain fee types

144. A few respondents noted that the cost/risk framework was less relevant to application fees, as processing applications involved the same level of resource regardless of their risk rating. This was not a consistent theme.

145. Several stakeholders suggested that the regulatory effort for BYO licences and special licences was not adequately reflected in the respective fees. This may impact over time on objective 1 and objective 2; see further discussion at paragraph 74.

146. Some submitters proposed that the highest-risk licence categories should be charged a higher fee to provide a greater incentive to change practices to reduce their cost/risk rating. This would not necessarily reflect a higher regulatory effort (cost) of those licences.

## Conclusion

147. The survey responses, submissions and data collected provide a useful initial review of how the fees framework is operating in practice. They do not indicate any significant concerns or anomalies in the risk factors used. Most stakeholders, including industry, provided positive feedback on the existence of a risk based licensing fees framework.

### Validity of existing risk factors

148. Based on the information received the existing framework, and the current risk factors, appear to still be relevant and broadly reflective of the costs and risks associated with each respective licence category.

149. Councils are very different in size, type and licence structure. As is to be expected there is a wide variability in which factors create the greatest need for regulatory effort, and the extent to which this drives councils' costs. However, the factors used in the national framework (premises type, closing times and enforcement holdings) seem to be relevant in all cases.

150. Enforcement holdings data from ARLA and the New Zealand Police Alco-link data (for on-licence premises) provided strong support for closing times, previous enforcements, and premises-type being relevant factors for regulatory effort.

151. The appropriate relativity of the weighting assigned to each factor is less clear but there is nothing to indicate that the current weightings are not appropriate.

### Other risk factors

152. The review has identified some potential areas for further work in the future, including further investigation of additional or revised risk factors. Any proposed changes to risk factors would need to be supported by New Zealand-based data, and be balanced against simplicity and ease of administration for the overall licensing regime.

## Objective 3: Local circumstances

### Summary

- Most reporting councils still use the default fees in the Regulations and have not adopted fee setting bylaws.
- However, many councils use the discretionary power in the Regulations to reduce the cost/risk category, and so the licence fee, of certain licence holders.

### The local circumstances objective

“To allow local circumstances (such as locally required levels of monitoring and enforcement) to be reflected in the fees paid by operators and income received by local councils”

153. This objective recognises that most of the alcohol licensing functions are managed by local councils. It allows councils to accommodate local circumstances in the way the alcohol licensing is administered in practice, within a national legal framework.

154. The Regulations support objective 3 by:

- enabling councils to make bylaws setting their own fees to adapt to local requirements and recover costs of locally required licensing activities
- allowing granting of discretionary discounts (by one risk category) for on-, off-, club and special licences; and
- splitting the fees into application and annual fees, with annual fees covering ongoing cost for monitoring and enforcement.

### Review Findings

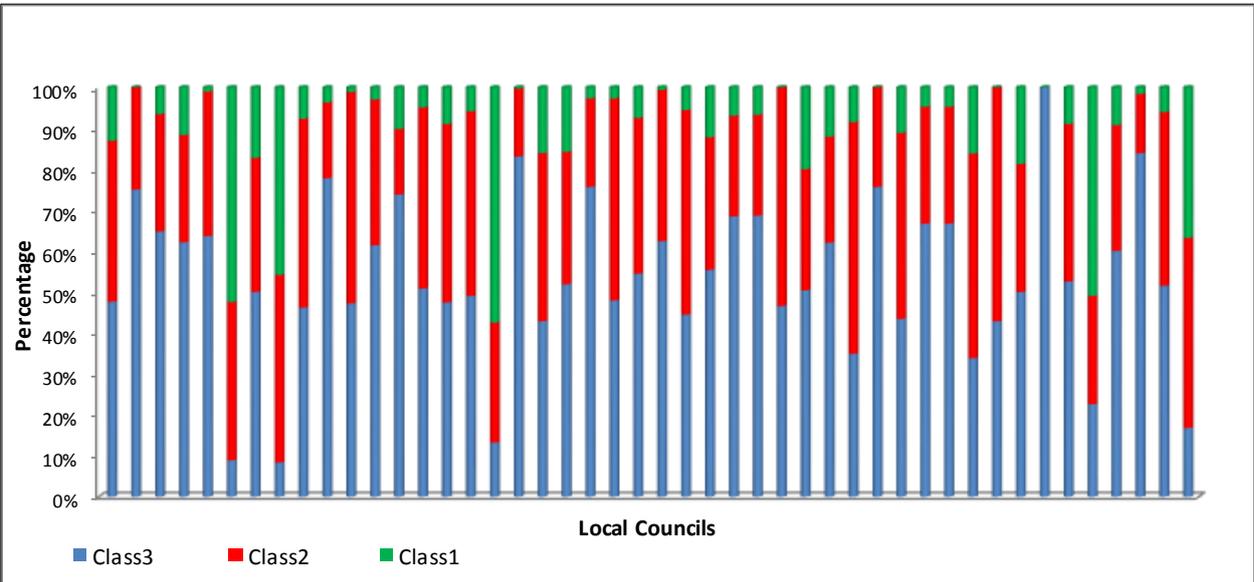
#### Discretionary discounts

155. A large proportion of councils (43 percent of respondents to the initial survey) indicated that they use discretionary fee discounts. The review could not quantify the extent to which this discretion is used overall though, as the reported data only gives the ‘discounted’ fee category.

## Special licences

- 156. Discounting appears to be most widely used for special licences. Some councils used the discretion widely for school, community and charitable events, to reduce costs for event organisers. Others have developed discounting policies for particular low-risk licence holders, such as online gift retailers whose gift packages include small amounts of alcohol.
- 157. Figure 12 shows the proportion of special licences by licence class. There is considerable variance in the proportion of licences issued by class. This may impact on councils' cost and revenue profile (objective 1). However, the review did not identify any patterns between these ratios and the councils with the highest and lowest cost recovery rates for 2015/16.
- 158. Some councils suggested greater flexibility for setting the special licence fees.

**Figure 12: 2015/16 proportion of special licences by class**



Source: Data provided by councils in 2017; ordered by councils with the lowest to highest cost recovery rates

## Local bylaws

- 159. Only two councils reported adopting a bylaw to adjust the default fees. Southland District Council<sup>10</sup> has reduced the annual fee for on-, off- and club licences by 30 percent, while Whangarei District Council<sup>11</sup> has increased the fees for all licences in two stages.
- 160. Some councils indicated they may consider bylaws in the future. Others were waiting for the regime to settle before considering local fees. Some also commented on the time and resource involved in bylaws, or noted that the fees regime was not a priority for them.

<sup>10</sup> <https://www.southlanddc.govt.nz/my-southland/alcohol-licensing/alcohol-licensing-fee-setting-bylaw/>  
<sup>11</sup> <http://www.wdc.govt.nz/PlansPoliciesandBylaws/bylaws/Pages/Alcohol-Fees-Bylaw.aspx>

161. Industry stakeholders in general seem to prefer nationally consistent fees. Their submissions noted concerns about increases in fees. The industry was also keen to ensure full transparency and accountability, especially where fees are adjusted at the local level.

## Conclusion

162. It was anticipated that councils would use the default fees in the early years, while the regime was being implemented. However, it appears that councils continue to primarily rely on the discounting mechanism in the Regulations to adjust fees at a local level, not the bylaw provisions.

163. The discretionary discounting mechanism partially supports the objective, but it does not fully allow for fees to be adapted to local circumstances. Fees can only be reduced, and only by one fee category. The fee amount itself is still set by the default framework.

164. The ability to set fees by bylaw was intended as the main mechanism to allow fees to better reflect local circumstances. Bylaws are also relevant to the cost recovery discussion at paragraph 77. As noted at paragraph 83, improvements in data collection will assist councils to assess their individual cost recovery profiles and set their own fee rates.

165. The process to set local fees is an area that could be revisited in future reviews, to ensure that councils actively consider whether the default fees adequately reflect local needs or whether they should be adjusted. If the existing bylaw process is identified as a barrier to local fee setting, future reviews could also consider other mechanisms to make it easier for local circumstances to be reflected in the fees. There is a careful balance to be struck between local flexibility, and upholding a national fees framework which applies fairly and consistently across the country.

## Objective 4: Minimisation of harm

### Summary

- New Zealand Police data on the 'Last Drink' consumed by apprehended individuals indicates a downward trend since the introduction of the new regime. This trend is steeper than the downward trend for all comparable proceedings over the same period.
- The number of ARLA enforcement holdings has also declined since 2013/14.
- Some licensees appear to have adjusted their operating model to reduce their cost/risk category. However, these changes will likely be influenced by other regulatory changes, such as local alcohol policies.
- It is unclear the extent to which the fees have played a role in these trends.

### The minimisation of harm objective

“To minimise alcohol-related harm to the extent that this can be achieved through a cost recovery fee regime”

166. One of the overall objectives of the Sale and Supply of Alcohol Act 2012 is that the harm caused by the excessive or inappropriate consumption of alcohol should be minimised. The licensing regime plays a role in supporting this objective, by regulating the standards required for those selling alcohol. The licence fee indirectly supports the Act's objective too, through providing funding to enable regular inspections, monitoring and enforcement activity, to ensure the expected standards are maintained.

167. The Regulations support objective 4 by:

- providing for discretionary discounts to fees if operators have shown or are likely to show good practices
- ensuring that previous enforcement holdings have a significant impact on the fees to be paid by on-, off- and club licensees
- providing incentives for licensees to move to lower cost/risk categories by adjusting their business operating model, for example by adopting earlier closing hours.

### Review Findings

168. As noted at paragraph 45, there are a number of different aspects of alcohol-related harm. This review considered the regulatory effort related to licence types, estimated via ARLA

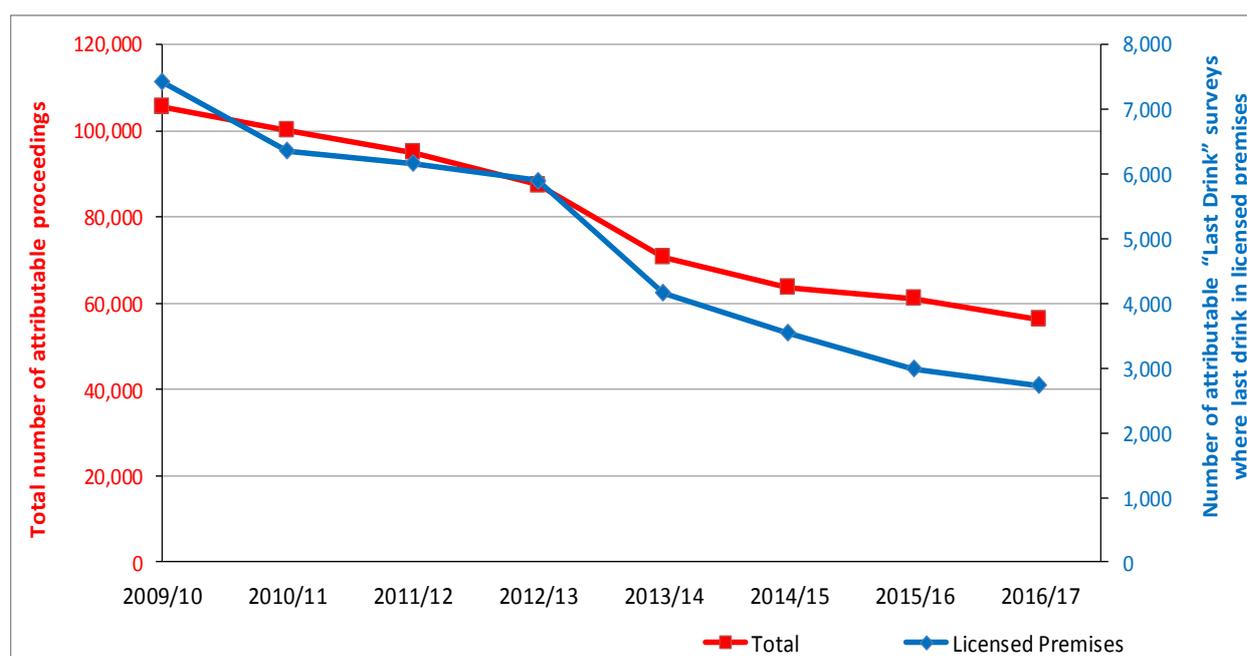
enforcement activity and New Zealand Police Alco-link data, and used these as indicators for alcohol-related harm.

## New Zealand Police Alco-link data

169. As explained at paragraph 28, the Alco-link or “Last Drink” data relates to individuals apprehended by Police. The survey records individuals’ self-reported response to questions about their last alcoholic drink. It links this, where known, to the licensed premises in which the last drink was consumed.

170. Limitations in this data set meant it was not possible to determine from the Alco-link data what changes there have been in the overall number of apprehended individuals who had consumed alcohol. This is because the percentage of “Last Drink” surveys where an alcohol link is recorded as ‘not known’ has increased from 28 percent in 2012/13 to 51 percent in 2017/18. This limitation is discussed further at paragraph 36.

**Figure 13: Total number of “Last Drink” surveys where last drink in licensed premises compared with total attributable proceedings: 2009/10 to 2016/17**



Source: Police Alco-link data

171. The total number of “Last Drink” surveys which did record a response of ‘yes’ from apprehended individuals, and which were linked to a licensed premises, is shown in Figure 13 (blue line). It indicates a downward trend. This must, however, be considered within the wider context of all similar types of offending, which has also seen a downward trend (red line in Figure 13).

172. The number of “Last Drink” surveys associated with licensed premises (blue axis), and the total number of attributable proceedings<sup>12</sup> (red axis) decreased at very similar levels between 2009/10 and 2012/13. Since the Act has been in force, the number of attributable “Last Drink” surveys associated with licensed premises reduced by 54 percent, compared with a 36 percent decrease for all attributable proceedings.

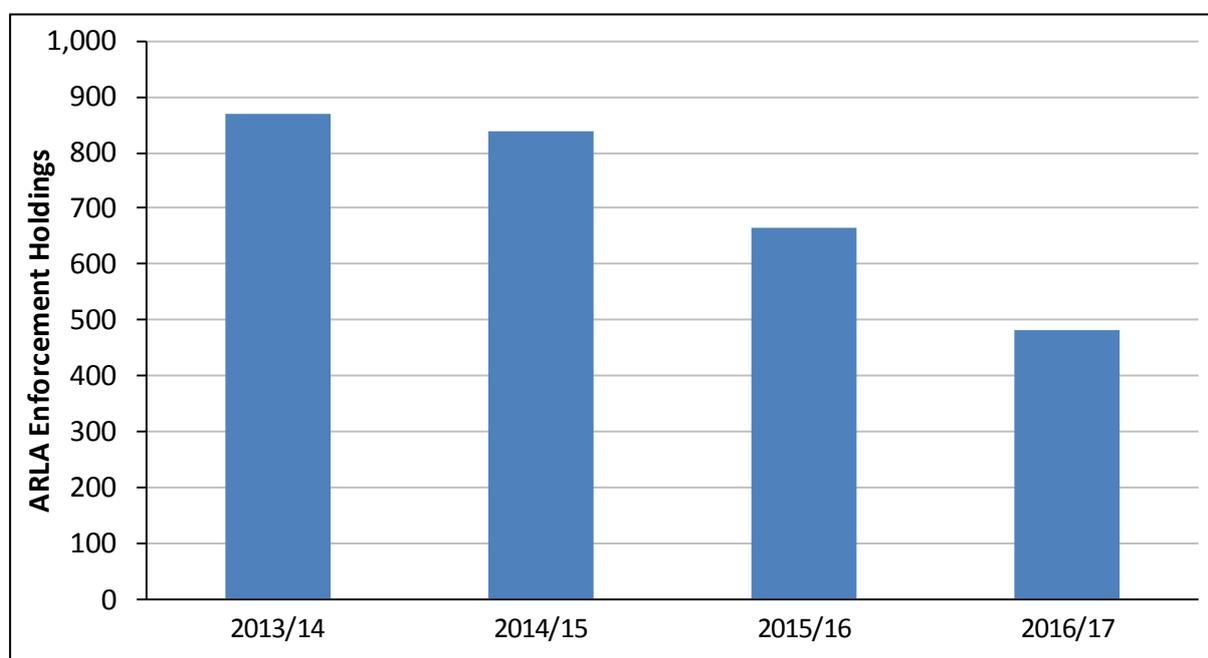
173. Figure 13 does not indicate causality. It is unclear to what extent the fees regime has impacted on these trends.

## ARLA enforcement holdings

174. Previous enforcement holdings<sup>13</sup> have a significant impact on the licence fee to be paid. In addition, a licence can be cancelled after three holdings within three years. This is why enforcement holdings play a significant role in encouraging compliance, which in turn supports the objective of minimising alcohol-related harm.

175. Figure 14 shows the number of ARLA enforcement holdings since 2013/14. The number decreased by 44 percent from 2013/14 (868) to 2016/17 (483) which may indicate improved compliance and consequentially a reduction of alcohol-related harm. As with the Alco-link data, it cannot be determined what role the fees play in this trend. Other factors such as changes in enforcement practices may have influenced these figures.

**Figure 14: Number of ARLA enforcements from 2013/14 to 2016/17**



Source: ARLA/Ministry of Justice data

<sup>12</sup> Attributable proceedings include: homicides, causing injury, sexual offences, robbery/extortion, weapon offences, property damage, public disorder, resisting, obstructing or hindering Police, breaches of the peace, and are extracted from Recorded Crime Offender Statistics data sourced from NZ Police.

<sup>13</sup> Enforcement holdings are a finding (a holding) by ARLA that a licensee or a manager of a licensed premises has contravened certain provisions in the Sale and Supply of Alcohol Act 2012, section 288 of the Act.

## Changes in cost/risk category

176. Many councils noted a trend towards lower risk categories in the licensing applications, although some reported no trends. However, without the necessary time-series data by licence category this has not been possible to verify. A number of councils, licensing inspectors and Medical Officers of Health mentioned reductions in opening hours for both on- and off-licences. Some councils also commented that event organisers and licence applicants were showing a greater duty of care, which may have been partially driven by awareness of the cost/risk category weightings.
177. As discussed under objective 3, many councils are using discretionary discounts to reduce the risk/cost category of some applicants, and so the fees due, by one category. Although councils applied the discretion differently, encouraging good compliance behaviour was noted by several as an influencing factor. This is consistent with the objective of harm reduction.
178. Many stakeholders, including several from the industry, supported the idea of using the fees regime to incentivise or reward good behaviour over and above the existing risk weighting given to 'previous enforcements'. This was sometimes linked with comments about the relevance of ARLA enforcement holdings as a risk factor, both because of the timing of holdings and because lower level of non-compliance such as Police infringement notices, did not affect the risk rating (see paragraph 134).

## Conclusion

179. It is not possible to isolate the impact of the Regulations, if any, on the trends in the Alco-link surveys, or licensees' compliance or other harm reduction behaviour. The fees regime is one part of a wider system of alcohol regulation which has seen significant changes with the introduction of the 2012 Act. For example, the introduction of local alcohol policies can have a significant impact on trading hours, and consequently on the risk rating of licence applications.
180. There was some feedback that the incentives provided in the Regulations are having a positive effect on licensees' compliance behaviours. This indirectly supports the objective of minimisation of alcohol-related harm

# APPENDICES

- Appendix 1** Fees Framework
- Appendix 2** 2015/16 Licence Data
- Appendix 3** ARLA Workload
- Appendix 4** Online Survey Responses
- Appendix 5** Literature Review

# Appendix 1: Fees Framework

**Table 1: Cost/risk rating of premises**

<b>Licence type</b>	<b>Factor 1: Type of premises</b>	<b>Weighting</b>
On-licence	Class 1 restaurant, night club, tavern, adult premises	15
	Class 2 restaurant, hotel, function centre	10
	Class 3 restaurant, other	5
	BYO restaurant, theatres, cinemas, winery cellar doors	2
Off-licence	Supermarket, grocery store, bottle store	15
	Hotel, tavern	10
	Class 1, 2 or 3 club, remote sale premises, other	5
	Winery cellar doors	2
Club licence	Class 1 club	10
	Class 2 club	5
	Class 3 club	2
<b>Licence type</b>	<b>Factor 2: Latest trading hour allowed by licence</b>	<b>Weighting</b>
On-licence or club licence	2:00am or earlier	0
	Between 2:01am and 3:00am	3
	Any time after 3:00am	5
Off-licence (excl. remote sales premises)	10:00pm or earlier	0
	Any time after 10:00pm	3
Remote sales premises	Not applicable	0
<b>Licence type</b>	<b>Factor 3: Number of ARLA enforcement holdings in last 18 months</b>	<b>Weighting</b>
All licence types	None	0
	1	10
	2 or more	20

**Table 2: Current default fees, by fee category (excl. GST)**

Licence type and cost/risk rating	Application or Renewal (\$)	Annual (\$)	Proportion of fee payable to ARLA (\$)	
			Application	Annual
<b>On-licences, off-licences and club licences</b>				
Very low (0-2)	320	140	15	15
Low (3-5)	530	340	30	30
Medium (6-15)	710	550	45	45
High (16-25)	890	900	75	75
Very High (26+)	1,050	1,250	150	150
<b>Special Licences</b>				
Class 1	500	n/a	n/a	n/a
Class 2	180	n/a	n/a	n/a
Class 3	55	n/a	n/a	n/a
<b>Other licence types</b>				
Manager's certificate	275	n/a	25	n/a
Temporary Authority	258	n/a	n/a	n/a
Temporary Licence	258	n/a	n/a	n/a
Permanent Club Charter	550	n/a	n/a	n/a

## Appendix 2: 2015/16 Licence Data

**Table 1: Number of premises licences issued/renewed 2015/16,<sup>14</sup> by cost/risk category**

Source: Local council survey responses<sup>15</sup>

	On-licence						Off-licence						Club licence					
	Very Low	Low	Med	High	Very High	Total	Very Low	Low	Med	High	Very High	Total	Very Low	Low	Med	High	Very High	Total
Auckland	60	617	489	140	5	<b>1311</b>	23	76	182	175	10	<b>466</b>	34	106	17	8	0	<b>165</b>
Central Hawke's Bay	0	5	10	0	0	<b>15</b>	0	1	4	2	0	<b>7</b>	9	0	0	0	0	<b>9</b>
Central Otago	18	18	1			<b>37</b>	33	16	1			<b>50</b>	13	1				<b>14</b>
Christchurch	15	143	128	32	3	<b>321</b>	6	18	50	20		<b>94</b>	53	22	6			<b>80</b>
Clutha	0	2	4	4	0	<b>10</b>	0	0	1	1	0	<b>2</b>	21	0	1	0	0	<b>22</b>
Dunedin	6	46	32	23	0	<b>107</b>	3	2	10	3	0	<b>18</b>	51	1	0	0	0	<b>52</b>
Far North	1	35	25	0	0	<b>61</b>	3	1	36	1	0	<b>41</b>	26	4	0	0	0	<b>30</b>
Gore		2	2	2		<b>6</b>		4	4			<b>8</b>		5	2			<b>7</b>
Hastings	2	23	16	6	0	<b>47</b>	15	17	14	3	0	<b>49</b>	9	4	3	0	0	<b>16</b>
Hauraki		2	11	1		<b>14</b>	1		12	1		<b>14</b>	9	3	1			<b>13</b>
Horowhenua	1		14	1		<b>16</b>	1	2	10	3		<b>16</b>	14	5				<b>19</b>
Invercargill	2	4	13	2		<b>21</b>		1	3	6		<b>10</b>	14	3	1			<b>18</b>
Kaikoura		15	2	1		<b>18</b>	2	1	4			<b>7</b>	3					<b>3</b>
Kapiti Coast						<b>42</b>						<b>13</b>						<b>0</b>
Mackenzie	1	4	11	2		<b>18</b>			12			<b>12</b>	1	1				<b>2</b>
Manawatu		7	10			<b>17</b>			5			<b>5</b>	6	2				<b>8</b>
Marlborough		31	28	6	2	<b>67</b>	3	32	17	2		<b>54</b>	14	2				<b>16</b>

<sup>14</sup> Note that Table 1 and 2 show the number of licences issued or renewed in 2015/16, not the total number of licences in place in 2015/16.

<sup>15</sup> Data not provided by all councils.

	On-licence						Off-licence						Club licence					
	Very Low	Low	Med	High	Very High	Total	Very Low	Low	Med	High	Very High	Total	Very Low	Low	Med	High	Very High	Total
Nelson	13	18	21	5	1	<b>58</b>	3	8	4	1	0	<b>16</b>	8	0	1	0	0	<b>9</b>
Opotiki			6			<b>6</b>			4			<b>4</b>			4			<b>4</b>
Otorohanga	0	1	3	0	0	<b>4</b>	0	1	2	0	0	<b>3</b>	3	1	1	0	0	<b>5</b>
Palmerston North	8	33	17	12		<b>70</b>			10	3		<b>13</b>	6	2	3			<b>11</b>
Queenstown-Lakes		25	22	7		<b>54</b>	2	8	8	4		<b>22</b>	4					<b>4</b>
Rotorua	1	25	35	14	1	<b>76</b>	0	0	18	9	0	<b>27</b>	9	3	0	0	0	<b>12</b>
Ruapehu		5	18	2		<b>25</b>			8	1		<b>9</b>	2	4				<b>6</b>
Selwyn	0	12	11	1	0	<b>24</b>	1	6	3	0	0	<b>10</b>	5	6	0	0	0	<b>11</b>
South Taranaki		1	14			<b>15</b>		1	6			<b>7</b>	8	1				<b>9</b>
South Waikato						<b>10</b>						<b>6</b>						<b>3</b>
Southland		18	23	2		<b>43</b>			20			<b>20</b>	21	10	2			<b>33</b>
Taranua	1	2	6	2		<b>11</b>			9	1		<b>10</b>	10	2	1			<b>13</b>
Taupo		14	34	1	1	<b>50</b>		4	12	3		<b>19</b>	9	6	2			<b>17</b>
Tauranga	6	48	56	10	0	<b>120</b>	1	1	32	1	0	<b>35</b>	12	7	5	0	0	<b>24</b>
Thames-Coromandel	1	28	12	0	0	<b>41</b>	1	5	16	1	1	<b>24</b>	14	2	1	0	0	<b>17</b>
Timaru	1	15	14	5	0	<b>35</b>	1	0	7	3	0	<b>11</b>	7	5	0	0	0	<b>12</b>
Waimakariri						<b>31</b>						<b>13</b>						<b>7</b>
Waimate	1	4	11	2		<b>18</b>			12			<b>12</b>	1	1				<b>2</b>
Waipa						<b>26</b>						<b>14</b>						<b>19</b>
Wairoa		3	4			<b>7</b>		1	6			<b>7</b>	5					<b>5</b>
Wellington						<b>255</b>						<b>46</b>						<b>40</b>
Western Bay of Plenty	0	14	6	0	0	<b>20</b>	4	1	15	0	0	<b>20</b>	2	12	2	0	0	<b>16</b>
Whangarei	4	27	15	7	0	<b>53</b>	2	9	17	0	0	<b>28</b>	17	17	0	0	0	<b>34</b>

**Table 2: Other licences issued 2015/16**

Source: Local council survey responses

	Special Licences				Club charter	Temp licence	Temp Authority
	Class 1	Class 2	Class 3	TOTAL			
Auckland	247	1010	966	2223	2		634
Central Hawke's Bay	2	14	17	33	0	0	6
Central Otago	25	27	63	115			22
Christchurch	66	221	690	977	3	1	105
Clutha	2	92	84	178	0	0	9
Dunedin	1	54	267	322	2	0	52
Far North				0			22
Gore	6	20	39	65			1
Hamilton	18	65	47	130	0		61
Hastings	21	43	69	133	0	0	10
Hauraki	11	11	2	24			2
Horowhenua	0	31	27	58	0	0	7
Invercargill	12	26	62	100	1		4
Kaikoura		9	28	37			3
Mackenzie	1	6	14	21			
Manawatu	5	30	30	65	0	0	10
Marlborough	19	30	138	187	1		25
Nelson	13	28	67	108	2		21
Otorohanga	0	10	30	40			6
Palmerston North	7	35	33	75	2		29
Queenstown-Lakes	61	74	28	163		33	29
Rotorua	4	32	112	148	0	0	34
Ruapehu	2	34	31	67			6
Selwyn	10	51	73	134			14
South Taranaki		34	37	71			7
South Waikato	2	22	23	47			4
Southland	4	44	49	97			24
Tararua	3	27	31	61	0	0	1
Taupo	8	32	45	85			11
Tauranga	148	61	32	241		60	
Thames-Coromandel	65	48	11	124	0	0	29
Timaru	17	45	77	139			8
Waimate	1	6	14	21			
Waipa				133	0	0	15
Wairoa		5	8	13			3
Wellington				355			
Western Bay of Plenty	1	35	63	99	0	0	15
Whangarei	22	66	80	168	0	0	42

# Appendix 3: ARLA Workload

**Table 1: Estimated workload of the ARLA, at Royal Assent plus 30 months (for six months)**

Source: 2013 Public consultation document

Application type	Current caseload	Current workload (hours)	Low		Medium		High	
			Caseload	Workload (hours)	Caseload	Workload (hours)	Caseload	Workload (hours)
Appeals to the ARLA	1	10	2	20	6	60	10	100
Enforcement applications	402	437	547	594	699	759	821	892
Opposed manager's certificate applications	255	387	0	0	31	48	63	95
Opposed licence applications	106	322	0	0	14	42	27	83
Total	<b>764</b>	<b>1155</b>	<b>549</b>	<b>614</b>	<b>750</b>	<b>908</b>	<b>921</b>	<b>1170</b>

Notes: Current caseload and workload is based on period 1 Jan 2012 to 20 June 2012

**Table 2: ARLA applications and appeals received (by year of receipt)**

Source: ARLA Annual Reports

	Year to 30 June		
	2014	2015	2016
Appeals against DLC decisions	16	46	41
Enforcement applications	728	667	504
Police reports under section 281(2)	0	0	1
Appeals against provisional LAPs	67	39	66
New licences (referred from DLCs)	72	3	0
Renewals of licences (referred from DLCs)	118	16	7
Variations of licence conditions	2	0	0
Applications to sell, supply or allow consumption of alcohol in greater area	3	0	0
New certificates (referred from DLCs)	122	47	5
Renewals of certificates (referred from DLCs)	71	12	3
	<b>1006</b>	<b>830</b>	<b>617</b>

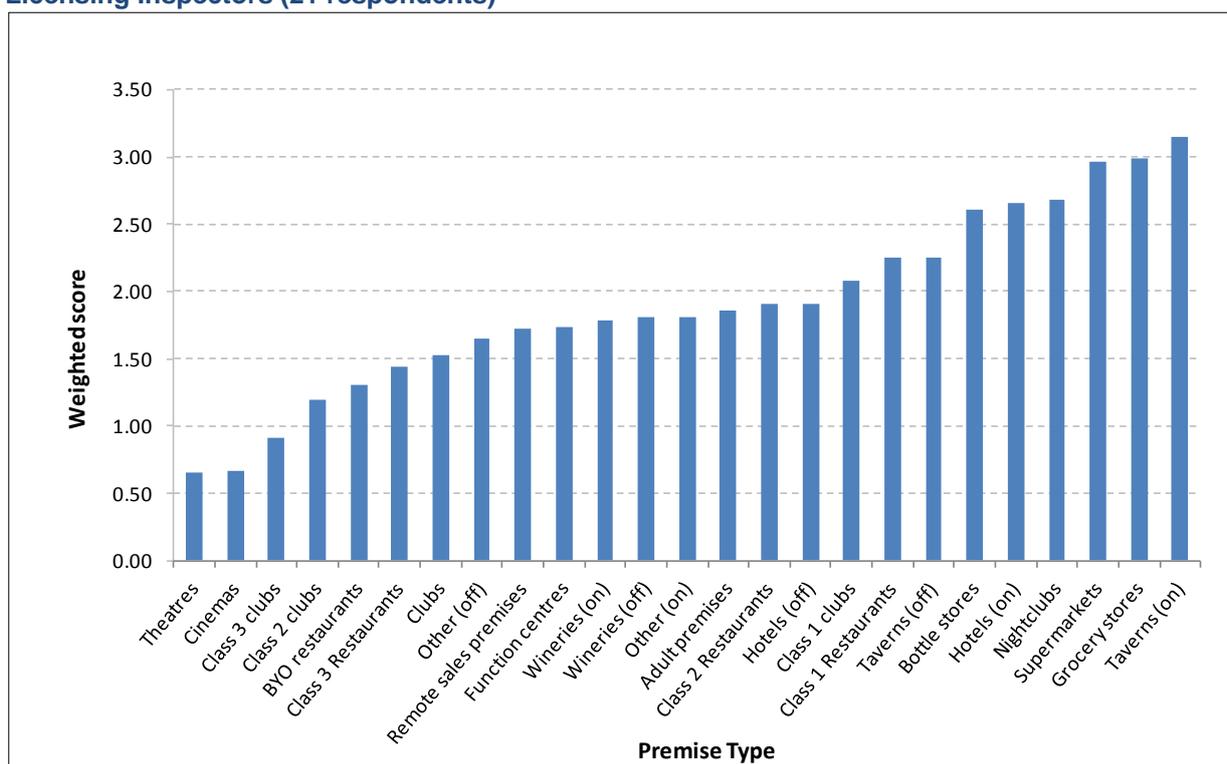
# Appendix 4: Online Survey Responses

## About the survey

1. Local councils, licensing inspectors and Medical Officers of Health were sent a web-based survey aiming to investigate the influence of premises type, closing hours, and previous enforcements holdings on the allocation of regulatory/monitoring efforts.
2. The response rate for local councils was 31 percent, with 21 out of 67 councils responding. A similar survey was carried out in 2013, with a response rate of just under 40 percent. Eight licensing inspectors and seven Medical Officers of Health responded.

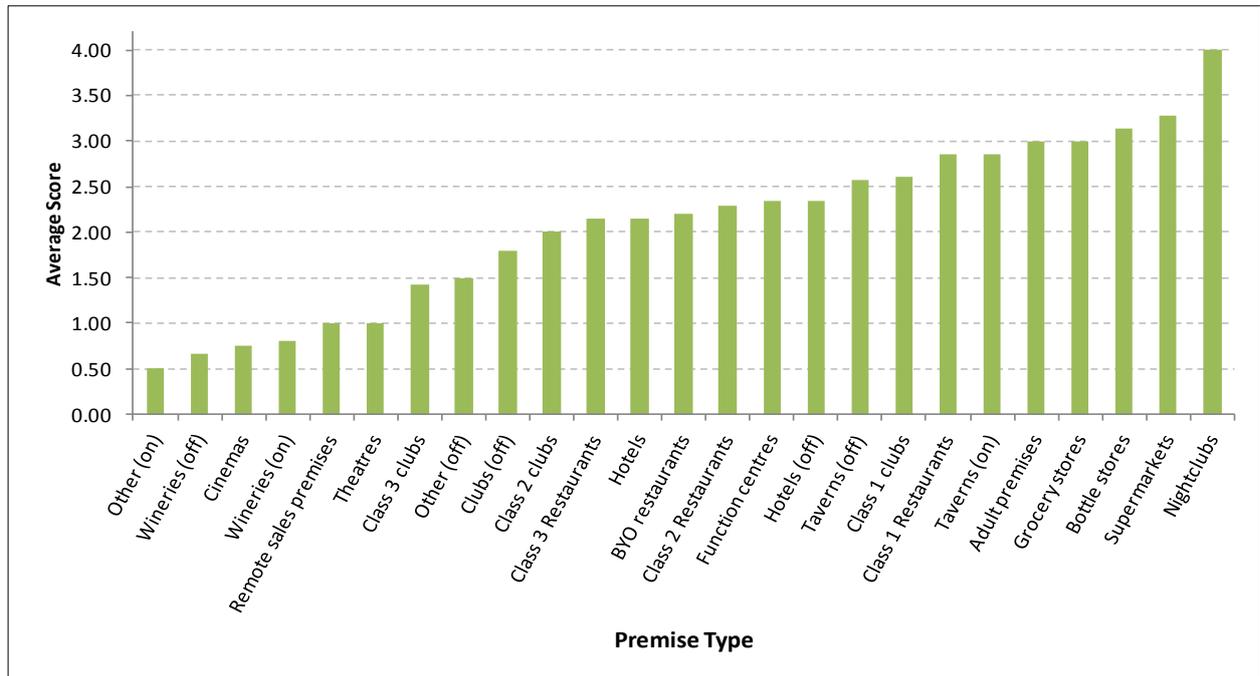
## Premises type

**Figure 1: Level of effort and cost applied to premises; by Council, size weighed by number of FTE Licensing Inspectors (21 respondents)**



Scale: 0 = very low effort/cost, 4 = very high effort/cost

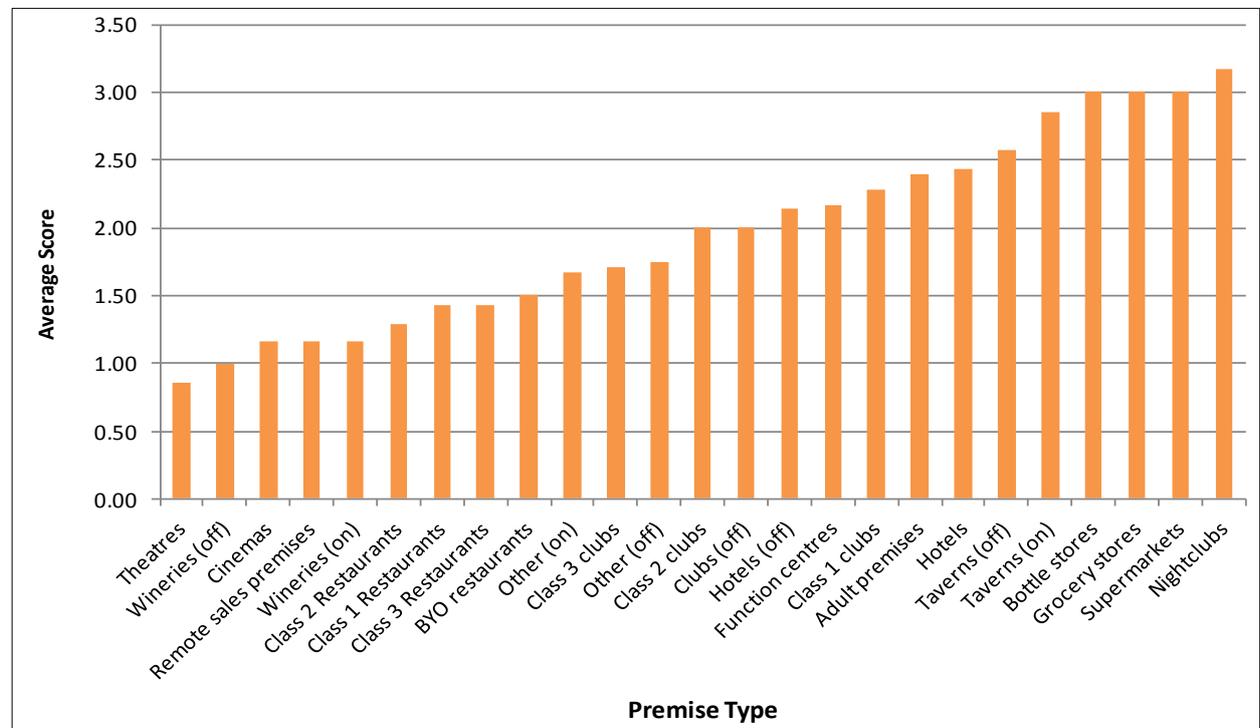
**Figure 2: Level of effort and cost applied to premises; Licensing Inspectors (8 respondents)**



Scale: 0 = very low effort/cost, 4 = very high effort/cost

Note: Low number of responses means that the survey results are indicative only

**Figure 3: Level of effort and cost applied to premises; Medical Officers of Health (7 respondents)**



Scale: 0 = very low effort/cost, 4 = very high effort/cost

Note: Low number of responses means that the survey results are indicative only

## Latest closing time

**Table 1: Influence of closing time on monitoring/enforcement resource allocation; Councils**

Licence type	Closing Hours	Very little influence	Some influence	Significant influence	Total	N/A
On	Before 2 am	43% 9	57% 12	0% 0	21	0
On	Between 2 - 3 am	27% 4	33% 5	40% 6	15	6
On	After 3 am	46% 6	0% 0	54% 7	13	8
Off	Before 10 pm	71% 15	29% 6	0% 0	21	0
Off	After 10 pm	41% 7	53% 9	6% 1	17	4

**Table 2: Influence of closing time on monitoring/enforcement resource allocation; Licensing Inspectors**

Licence type	Closing Hours	Very little influence	Some influence	Significant influence	Total	N/A
On	Before 2 am	14% 1	86% 6	0% 0	7	1
On	Between 2 - 3 am	17% 1	33% 2	50% 3	6	2
On	After 3 am	20% 1	0% 0	80% 4	5	3
Off	Before 10 pm	57% 4	43% 3	0% 0	7	1
Off	After 10 pm	50% 3	50% 3	0% 0	6	2

Note: Low number of responses means that the survey results are indicative only

**Table 3: Influence of closing time on monitoring/enforcement resource allocation; Medical Officers of Health**

Licence type	Closing Hours	Very little influence	Some influence	Significant influence	Total	N/A
On	Before 2 am	29% 2	43% 3	29% 2	7	0
On	Between 2 - 3 am	29% 2	29% 2	43% 3	7	0
On	After 3 am	40% 2	0% 0	60% 3	5	2
Off	Before 10 pm	43% 3	57% 4	0% 0	7	0
Off	After 10 pm	50% 3	17% 1	33% 2	6	1

Note: Low number of responses means that the survey results are indicative only

## Number of ARLA enforcement holdings

**Table 4: Influence of number of previous enforcements on monitoring/enforcement resource allocation; Councils**

Number of Enforcements	Very little influence	Some influence	Significant influence	Total	N/A
0	78% 14	22% 4	0% 0	18	3
1	6% 1	83% 15	11% 2	18	3
2 plus	6% 1	18% 3	76% 13	17	4

**Table 5: Influence of number of previous enforcements on monitoring/enforcement resource allocation; Licensing Inspectors**

Number of Enforcements	Very little influence	Some influence	Significant influence	Total	N/A
0	88% 7	13% 1	0% 0	8	0
1	0% 0	88% 7	13% 1	8	0
2 plus	0% 0	25% 2	75% 6	8	0

Note: Low number of responses means that the survey results are indicative only

**Table 6: Influence of number of previous enforcements on monitoring/enforcement resource allocation; Medical Officers of Health**

Number of Enforcements	Very little influence	Some influence	Significant influence	Total	N/A
0	86% 6	14% 1	0% 0	7	0
1	43% 3	29% 2	29% 2	7	0
2 plus	43% 3	0% 0	57% 4	7	0

Note: Low number of responses means that the survey results are indicative only

# Appendix 5: Literature Review Summary

## Summary

In 2013, as part of the development of a risk-based licensing framework, a research/literature review was undertaken to look at the risk factors associated with licensed premises. This earlier literature review highlighted risk factors associated with harmful behaviours.

The key risk factors that form the basis of the current fees framework, which were considered as part of the earlier review, include:

- Trading hours – later opening hours attract a higher rating
- Licence category/type of premises – certain types of premises attract a higher rating (e.g., bars and liquor stores)
- Compliance history – higher number of enforcements (for non-compliance due to patron intoxication, management and staff conduct, etc.) attract a higher rating.

The purpose of this updated research/literature review is to confirm if studies published since 2013 still support the findings of the earlier literature review for these key risk factors.

## Trading hours

There is a reasonable body of literature on the relationship between trading hours for licensed premises and alcohol-related harm. Harm includes either intentional (e.g., violent crime/assaults) and unintentional harm (e.g., intoxication).

Overall, the studies published since 2013 that specifically focus on trading hours showed:

- a positive association between later trading hours (especially early morning – 2am/3am and later) and increased rates of alcohol-related harm (especially violent crime/assaults)
- policy interventions to restrict trading hours have had a positive effect in reducing alcohol-related harm (especially violent crime/assaults).

However, it is important to note:

- the studies covered in this review used different measures to determine rates of alcohol-related harm, which means not all studies are comparable; for example, measuring harm based on number of hospitalisations for either intentional or unintentional injuries versus number of arrests for violence offences.
- the risk with non-control studies is that other factors may have influenced results (which a control study could better account for, such as de Goeij et al. (2015). The non-control studies mostly relied on data pre- and post-policy change for comparison.

- most of the studies focused on harm associated with trading hours for on-licence premises and there appears to still be a limited evidence base for harm associated with trading hours for off-licence premises; this difference could be due to the difficulty in drawing a link between the location of harm events with purchases from off-licence premises compared with on-licence premises.

## Type of premises

In the more recent studies that were considered as part of the updated research/literature review, there was overlap between type of premises and other variables such as trading hours and outlet location or density.

A small number of studies did focus on type of premises as a determining factor for level of alcohol-related harm. Interestingly some of these studies used the term “location” to describe different premises. For the purposes of this review, location relates to the nature of the area where licensed premises are located rather than the nature of individual premises.

While these studies appear to indicate a stronger relationship between on-licence premises and harm, there were differences in measures of harm and other dependencies that may have influenced results. For example, Cotti et al. (2014), which determined risk of motor vehicle accidents based on location of alcohol purchase. However, customer behaviour (e.g., more likely to binge drink and drive following purchase from on-licence rather than off-licence) may have had more of a mediating role than type of premises.

Therefore, the studies considered as part of this review do not necessarily provide definitive results for analysing the type of premises factor in the current fees framework. It may be necessary to look to information provided by Police, ARLA, local councils, licensing inspectors, and Medical Officers of Health on the types of premises that have a greater association with alcohol-related harm.

## Compliance history

The previous literature review used other risk-based fee frameworks in other jurisdictions as evidence to support the use of compliance history as a risk factor.

It appears that in studies where compliance is considered, the focus is more on specific aspects such as compliance with age restrictions and marketing/promotion restrictions.

As it has not been possible to locate many useful studies on compliance, other information, such as enforcement data could be used to determine if there is a positive relationship between number of enforcements that premises have received and alcohol-related offences occurring in or near premises.

However, the one relevant study covered in this review (Moore et al. (2017)) indicated that the relationship between compliance history and alcohol-related harm can be influenced by other factors. For example, premises with a negative compliance history may be subject to greater scrutiny and, therefore, increase the likelihood of enforcement activity. Therefore, it is important to take this into consideration when assessing enforcement data.

## Other factors

Other factors that are not currently considered within the existing fees framework are outlined below.

### Outlet density

A number of studies consider the effect of outlet density on levels of alcohol-related harm. Overall these studies indicate a positive association between outlet density and alcohol-related harm. However, as pointed out in a review study (Gmel et al. (2015)), it can be difficult to pinpoint the main cause of harm. For example, does demand drive higher outlet density and, therefore, greater availability of alcohol leading to harm (consumer behaviour is cause), or does high outlet density/greater availability lead to an increase in consumption and, therefore, harm (number of outlets is cause)?

We note that under the current framework, local alcohol policies can be used to address outlet density and associated risks. For example, in Auckland, the provisional local alcohol policy has designated priority areas that have high levels of alcohol-related crime and a high number of licensed premises that will be subject to additional rules to managed outlet density.

### Outlet location

As noted under type of premises, location has been used in some studies to refer to categories of premises (eg, on-licence premises in entertainment/nightlife areas).

For the purposes of this review, location relates to the nature of the area where licensed premises are located. For example, high or low population or high or low socioeconomic areas.

Location characteristics featured in some of the studies that focused on the association between outlet density and harm. Outlet location was used to determine whether this either had an effect on outlet density or levels of harm. Unfortunately, from the small number of studies covered by this review, it is not possible to confirm if outlet location is a key cause of harm.

### Volume

Volume of alcohol to be sold has been used as a factor in other licensing fee regimes, specifically Australian Capital Territory (ACT). In ACT, total retail value of alcohol to be sold (e.g. amount of stock) determines the rate of fee applied. The higher the total retail value, the higher the fee.

Volume of alcohol sold/purchased (based on sales data) is covered in some of the studies in this review. Where this factor has been considered, there appears to be a positive relationship between higher volumes of alcohol sales (especially from on-licences) and higher levels of alcohol-related harm.

## Studies included in review:

- de Goeij et al. (2015) *The impact of extended closing times of alcohol outlets on alcohol-related injuries in the nightlife areas of Amsterdam: a controlled before-and-after evaluation*  
<http://onlinelibrary.wiley.com/doi/10.1111/add.12886/abstract>
- Fitterer et al. (2015) *A Review of Existing Studies Reporting the Negative Effects of Alcohol Access and Positive Effects of Alcohol Control Policies on Interpersonal Violence*  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4644794/>
- Green et al. (2015) *Longer Opening Hours, Alcohol Consumption and Health*  
[http://www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/economics/working-papers/LancasterWP2015\\_029.pdf](http://www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/economics/working-papers/LancasterWP2015_029.pdf)
- Hobday et al. (2015) *The effect of alcohol outlets, sales and trading hours on alcohol-related injuries presenting at emergency departments in Perth, Australia, from 2002 to 2010*  
<http://onlinelibrary.wiley.com/doi/10.1111/add.13063/full>
- Humphreys et al. (2013) *Evaluating the impact of flexible alcohol trading hours on violence: an interrupted time series analysis*  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3574094/>
- Humphreys et al. (2014) *Do flexible alcohol trading hours reduce violence? A theory-based natural experiment in alcohol policy*  
<https://www.ncbi.nlm.nih.gov/pubmed/24565135>
- Kyprilidis et al. (2014) *Restrictions in pub closing times and lockouts in Newcastle, Australia five years on*  
<https://www.ncbi.nlm.nih.gov/pubmed/24589092>
- Marcus and Siedler (2015) *Reducing binge drinking? The effect of a ban on late-night off-premise alcohol sales on alcohol-related hospital stays in Germany* (abstract)  
<http://www.sciencedirect.com/science/article/pii/S0047272714002564?via%3Dihub>
- Menéndez et al. (2015) *The effects of liquor licensing restriction on alcohol-related violence in NSW, 2008-13* (abstract)  
<https://www.ncbi.nlm.nih.gov/pubmed/25892435>
- Schofield and Denson (2013) *Alcohol outlet business hours and violent crime in New York State*  
<https://academic.oup.com/alcalc/article-lookup/doi/10.1093/alcalc/agt003>
- Wilkinson et al. (2016) *Impacts of changes to trading hours of liquor licences on alcohol-related harm: a systematic review 2005-2015*

- <http://www.phrp.com.au/issues/september-2016-volume-26-issue-4/impacts-of-changes-to-trading-hours-of-liquor-licenses-on-alcohol-related-harm-a-systematic-review-2005-2015/>
- Research First (2015) *Alcohol Purchasing from Off-licenced Premises: Method Report*  
<http://www.hpa.org.nz/sites/default/files/Alcohol%20Off-licensed%20Purchases%20and%20Subsequent%20Harm%20Method%20Report%20FINAL.pdf>
  - Health Promotion Agency (2016) *Alcohol off-licence purchases and subsequent harm: Summary report*  
<http://www.hpa.org.nz/sites/default/files/Alcohol%20Off-licensed%20Purchases%20and%20Subsequent%20Harm%20Summary%20Report%20FINAL%20%281%29.pdf>
  - Health Promotion Agency (2017) *Alcohol off-licence purchases and subsequent harm*  
<http://www.hpa.org.nz/sites/default/files/Alcohol%20Off-licensed%20Purchases%20and%20Subsequent%20Harm%20Technical%20Report%20FINAL.pdf>
  - Cameron et al. (2016) *The relationship between alcohol outlets and harms: A spatial panel analysis for New Zealand, 2007-2014*  
<http://www.hpa.org.nz/sites/default/files/HPA%20Outlets%20Report%20January%202017.pdf>
  - Gmel et al. (2015) *Are alcohol outlet densities strongly associated with alcohol-related outcomes? A critical review of recent evidence* (abstract only)  
<http://onlinelibrary.wiley.com/doi/10.1111/dar.12304/full>
  - Mair et al. (2013) *Varying impacts of alcohol outlet densities on violent assaults: Explaining differences across neighborhoods*  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3517264/>
  - Morrison et al. (2015) *Relating off-premises alcohol outlet density to intentional and unintentional injuries* (abstract only)  
<http://onlinelibrary.wiley.com/doi/10.1111/add.13098/abstract>
  - Pridemore and Grubestic (2013) *Alcohol outlets and community levels of interpersonal violence: Spatial density, outlet type, and seriousness of assault*  
<http://journals.sagepub.com/doi/pdf/10.1177/0022427810397952>

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