

Auckland Council

Annual Report to the Alcohol Regulatory and Licensing Authority for the period 1 July 2015 to 30 June 2016

Overview of Auckland Council District Licensing Committee workload over the period

District Licensing Committee structure and personnel

Auckland Council continues to use a region-wide pool of 11 commissioner chairs and 20 members, who are selected on a case-by-case basis to sit as a District Licensing Committee (DLC). For contested applications, at least one member of the DLC hearings panel is selected from the local area (where practicable).

The contracts of Auckland Council's current DLC chairs and members were due to expire on 15 October 2016, which immediately follows the local government elections. On 7 April 2016, Auckland Council's Regional Strategy and Policy Committee resolved to extend the current DLC contracts to mid-2017, mainly to enable the incoming Governing Body to be involved in the process and decision-making for DLC recruitment.

From 1 July 2017, the size of the DLC pool will be reduced to approximately five chairpersons and 10 members. This number of DLC members reflects operational needs based on current workload. Two DLC members have indicated that they do not wish for their contracts to be extended past October 2016.

A minor staffing change has occurred in the DLC Hearings team, whereby one hearings advisor is now permanently responsible for DLC hearings and another hearings advisor is available for back-up and overflow work. Previously three hearings advisors shared responsibility for DLC hearings, however the low percentage of applications progressing to hearing made it more efficient to reduce the number of advisors.

The allocation and administration of temporary authority (TA) applications was handed over from DLC Hearings to DLC Administration staff in March 2016. This has reduced the number of staff dealing with TAs and an allocation algorithm used by DLC Administration has resulted in fairer allocation of work across the DLC chairs and members.

Staff training undertaken relating to the Sale and Supply of Alcohol Act 2012

No formal alcohol-related staff training has occurred in the past year. However, all hearings staff have previously completed training on the Sale and Supply of Alcohol Act 2012, through courses run by Local Government New Zealand or the New Zealand Society of Local Government Managers.

Informal training continues to be provided to DLC chairs and members through quarterly DLC forums and occasional DLC chairs meetings. These meetings are facilitated by the Principal Advisor Hearings and are an opportunity to raise and discuss current issues or events relating to DLCs.

The Manager Alcohol Licensing and a Senior Solicitor from council's Legal Services Department also attend the forums and meetings.

DLC meetings or hearings

The number of DLC hearings remained constant, with 98 hearings held between 1 July 2015 and 30 June 2016, the same number as the previous year.

DLC initiatives

In August 2015, Auckland Council's Regional Strategy and Policy Committee endorsed a DLC work programme, which responded to opportunities for improvement that were identified through the DLC review in June 2015.

The work programme identified six key priority areas:

1. Education and information
 - clear information on alcohol licensing is widely available to applicants, objectors and other interested parties
 - local boards are kept up-to-date with information relating to DLC activities and are provided training where appropriate.
2. DLC hearings
 - Auckland Council notes trends in courts and tribunals and applies learnings to DLC hearings
 - hearings are accessible and formality is reduced where possible and appropriate.
3. Administration/procedures
 - improved coordination and efficiency between council departments and amongst staff.
4. Licensing and compliance
 - commitment to continuous improvement through clear, user-friendly, documentation and processes.
5. Legislative change
 - Auckland Council participates in any government review of the Sale and Supply of Alcohol Act
 - administrative/procedural improvements are identified and communicated to the appropriate authority in a timely manner.
6. DLC chairs and members
 - professional development opportunities for DLC chairs and members are encouraged and enabled
 - DLC performance is monitored over time.

Some of the initiatives that have been introduced through the DLC work programme include:

- recording of all DLC hearings from June 2016; audio files are provided on request and are transcribed for ARLA in the event of an appeal
- all DLC decisions being uploaded to the New Zealand Legal Information Institute website, which members of the public can access and search freely
- DLC hearing agendas published on the Auckland Council website
- staff participation in nationwide initiatives such as the joint Health Promotion Agency and Local Government NZ development of guidance documents for applicants, agencies and objectors
- introduction of artwork in hearings room to make it less formal and more welcoming for hearings participants
- bundling of opposed managers' certificate applications by area and setting aside a day each month in the relevant area for all opposed applications to be heard on the same day.

Local Alcohol Policy

Auckland Council's Provisional Local Alcohol Policy is currently under appeal to the Alcohol Regulatory and Licensing Authority.

Issues with current legislation

Temporary authorities

The Auckland District Licensing Committee secretariat wishes to reiterate its concern that temporary authority applications are not listed in Section 191(3) of the Sale and Supply of Alcohol Act 2012.

The result of this omission is that a quorum of three members is required for all temporary authority applications. While some DLC chairs have reported benefits in receiving input from panel members, overall this is an onerous and time-consuming exercise for applications that are generally urgent, low-risk and can only be granted for a maximum of three months.

The DLC secretariat would like temporary authorities to be added to the list in Section 191(3), to enable those applications to be determined by a quorum of one member who must be the chairperson.

Public notice requirements

The DLC secretariat would like to convey its concern that the Sale and Supply of Alcohol Regulations 2013 only require public notification through one medium; either a newspaper or newspapers circulating the district concerned, or on an internet site.

There are benefits and drawbacks to each option. Publishing alcohol notices online is less expensive than advertising in the regional newspaper and interested parties can sign up for notifications of licence applications in their area. Conversely, there are rural areas and households within Auckland that do not have reliable access to the internet. Local newspapers are widely read, however they do not provide a notification mechanism for interested parties and additional notices in the regional newspaper would be required to ensure members of the public are provided a reasonable opportunity to view and respond to the notices.

Consultation with Auckland Council local boards and interested councillors found that preferences were split if they had to choose between the two mediums. A clear preference was found for requiring public notification both in newspapers and online.

The DLC secretariat would like the Sale and Supply of Alcohol Regulations 2013 to be amended to permit DLCs to require public notification both in a newspaper or newspapers circulating the district concerned and on a nominated internet site.

Special licence applications

The DLC secretariat wishes to raise an issue with the prescribed timeframes for special licence applications. Currently, a person must apply for a special licence at least 20 working days before the event begins.

If a person applies for a special licence 21 days before the event begins, but the application is opposed and the DLC convenes a hearing, there is insufficient time before the event for reporting (15 working days under s141), notifying and hearing the application (10 working days under s202) and for the decision to take effect after the appeal period (10 working days under s152(2)).

Although s202 of the Sale and Supply of Alcohol Act does not require a hearing to be convened for applications that are opposed by the constable, inspector or Medical Officer of Health, for natural justice reasons the Auckland DLC has adopted a standard practice of convening a hearing for all opposed applications.

This creates a situation where reporting agencies may be reluctant to oppose special licences if it would result in a licence not being issued before the event, or applicants may be pressured to commit to certain undertakings to ensure that their application is not opposed.

The DLC secretariat suggests that the timeframe for applications for special licence be increased from the current 20 to 40 working days.

Statistical information

The following statistical information is attached to this report:

- Annual return
- Current listing of licensed premises.

Rob Abbott
DLC Secretary
(Processing and issuing)

Elizabeth McKenzie
DLC Secretary
(Hearings)