



Applying for a licence to sell or supply alcohol

A guide to applications and hearings

SEPTEMBER 2015

Applying for a licence to sell alcohol?

If you want to sell or supply alcohol, you must hold a current alcohol licence. Here you can find out:

- about the current law on alcohol licensing
- how to apply for a licence
- how licensing hearings work
- how licensing decisions are made.

This guide is for people applying for any type of new or renewed licence. It leads you through the application and hearings process under the Sale and Supply of Alcohol Act 2012.

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How this guide can help you

This guide sets out how to apply for a licence to sell or supply alcohol, what to include in your application, and the processes that you need to follow.

In some circumstances your application will need to go to a district licensing committee hearing. We explain how hearings work and what you need to do to prepare for, and take part in, a hearing.

You can also find out about when the Alcohol Regulatory and Licensing Authority is involved in applications.

The Sale and Supply of Alcohol Act 2012: what you need to know

The Sale and Supply of Alcohol Act 2012 (the Act) aims to minimise harm from alcohol by managing the way it's sold, supplied and consumed.

The Act's aims are to:

- ensure the safe and responsible sale, supply and consumption of alcohol
- minimise the harm from excessive and inappropriate drinking, including crime, disorder, public nuisance and negative public health outcomes.

For more detail on the object of the Act, see Figure 1 right.

The Act provides for community input to local alcohol licensing decisions through public objections.

It also establishes an alcohol licensing system that includes two new decision-making bodies:

- 1. district licensing committees**, which are administered by local councils and consider and decide on all applications for alcohol licences within their local areas
- 2. the Alcohol Regulatory and Licensing Authority**, which deals with most enforcement actions (eg, if someone sells alcohol in breach of the Act or their licence) and also decides appeals against decisions of district licensing committees.

The Act sets out the criteria for assessing alcohol licence applications (Figure 6). Decision-makers (members of district licensing committees or the Alcohol Regulatory and Licensing Authority) must take into account a range of matters, including the:

- object of the Act (Figure 1)
- provisions in any relevant local alcohol policy (Figure 2)
- impacts that a licence would have on 'amenity and good order' in the area (see Figure 7).

FIGURE 1

The object of the Sale and Supply of Alcohol Act 2012

Section 4 of the Act states in Subsection (1) that the object of the Act is that—

- (a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
- (b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

Section 4 goes on to say:

- (2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—
 - (a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
 - (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

FIGURE 2

Local alcohol policies

A local alcohol policy is a set of rules made by a council in consultation with its community about the sale and supply of alcohol in its local area. Local alcohol policies are developed under the Act and **must** be regarded in all decisions about alcohol licences. If a local alcohol policy exists, you need to consider what it says about the licence you're seeking, in addition to what the Act says.

Local alcohol policies can cover the following:

- Limiting the location of licensed premises in particular areas, such as near schools, community centres, playgrounds or churches
- Controlling the density (or total number) of licensed premises by stating whether new licences can be issued in an area
- Imposing conditions on particular types of licence as well as the conditions already provided for in the Act (see Figure 9), such as a 'one-way door' condition that would allow patrons to leave premises but not enter or re-enter after a certain time
- Restricting or extending the maximum trading hours set in the Act, which are:
 - 8am to 4am for on-licences (such as pubs and restaurants)
 - 7am to 11pm for off-licences (such as bottle stores and supermarkets).

Check your council's website to see if it has a local alcohol policy in place.

For further information on local alcohol policies, see www.alcohol.org.nz (see Alcohol management & laws).

Applying for your licence: what to do before you apply

This section takes you through the application process. There is a lot you can do to prepare before you formally apply for an alcohol licence. This preparation can save you money and time in the long run.

Check with your council

You need to start by checking your local council's website for information on how local licensing processes work. District licensing committees are run by district and city councils (including the Auckland Council). While all councils and district licensing committees follow the same general processes, there may be some local differences.

If you don't know the name of your local council you can go to localcouncils.govt.nz and click on the map. It will connect you to the website of the relevant city or district council.

Your council website will provide you with information on the application process, timeframes, fees and more, as well as the forms you need to complete. It's worth contacting your council's licensing team to talk about the specifics of your case. They may suggest meeting up for an informal discussion before you lodge your application.

You may also need resource and/or building consent in order to obtain your alcohol licence. You will need these if you're applying for a new licence and they may take time. Contact the consents and building team at your council to clarify exactly what's required.

Find out the type of licence you need

There are four main types of licence:

1. An on-licence to sell alcohol at your business for people to drink there (eg, pub, restaurant, cafe, bar)
2. An off-licence to sell alcohol from your business for people to take away and drink somewhere else (eg, bottle store, supermarket, grocery store)
3. A club licence (eg, sports club, RSA, working men's club)
4. A special licence for an event (eg, a food and wine festival, a wedding in a council hall).

You need to determine the type of licence you require depending on what you want to do. Have a look on your council's website for specific guidance on which licence is right for you.

FIGURE 3

Who can object to a licence application?

Anyone can object to an application for a new or renewed alcohol licence, as long as they can show that they have a 'greater interest' in the application than the public generally (section 102(1) of the Act). This usually means that they live near the proposed or existing premises to which the licence will apply, or have a direct link with alcohol-related harm in their community.

For example, a person with a greater interest could be:

- someone who lives 'within close proximity' to the proposed or existing premises. To learn more about the meaning of 'within close proximity', visit nzlii.org and look up 'PH 826/2013 *Janhurst Holdings Limited*' and 'Decision No. PH 1189/2009 *Liquor World Limited*'
- a member of the board of trustees of a marae or youth or education facility that's located nearby
- a person or group who works in the area of alcohol-related harm in your community, such as the Salvation Army or a nurse working in the local hospital emergency department.

Someone who's concerned about the effects of alcohol on the community in general but lives in a different area is unlikely to meet the criteria for 'greater interest'. The district licensing committee decides whether a person has a 'greater interest' so that the person has what is referred to as 'standing' to make a public objection to an application.

Note that not all applications for special licences need to be publicly notified. Public objections can only be made for publicly notified special licence applications.

Apply well in advance

It can take up to 50 working days (10 weeks) for licence applications to be determined. Delays can happen due to opposition or public objections or the district licensing committee deciding that a public hearing is required before it can make its decision (see Figure 3 for information on who can object to a licence application).

The process will take longer if there are any appeals to the Alcohol Regulatory and Licensing Authority. It is worth applying well in advance of the time that you need your licence. This is especially important if you need a licence for a one-off event or by a specific date. Avoid stress later on: start the application process as soon as you can.

Start gathering the information you need

Have a look at the information you need to complete your application form. Some of it may take time to get together. Start gathering what you need now. If you're not sure about any of the information requirements, speak to your local council's licensing team.

If you're applying for something that depends on your already having a licence, such as a renewal or temporary authority, check that the premises has a current licence and when it expires.

You may also want to look at the local alcohol policy for your area to find out any specific rules that you need to adhere to (see Figure 2).

Consider getting professional advice

There are many professionals who can provide you with advice and support during the alcohol licensing process. If you're new to the field or have a complex application, it may be worth considering professional advice and representation. Think of it as an investment in your application. Good professional advice can save you money and time in the long run.

FIGURE 4**Temporary authorities**

If you're a new owner/operator of a premises that already has a current licence, you can apply for a temporary authority that allows you to trade, for up to three months, under the licence's existing conditions and terms. This gives you time to lodge a new licence application. A temporary authority can't be issued to a club.

FIGURE 5**Special licences**

Special licences are treated slightly differently from on-, off- and club licences under the Act. Special licences allow for the sale or supply of alcohol to anyone over 18 attending an event such as a food and wine festival, private function, street party or sporting event.

You must lodge a special licence application at least 20 working days before the event unless there are special circumstances, in which case you need to ask the district licensing committee if it will agree to accept your application late – it might not.

Unlike for other licence applications, the secretary of the district licensing committee decides whether you need to publicly notify your special licence application and, if you do, the kind of notification required (eg, in a newspaper or by putting up a notice on the premises).

If there are any public objections or opposition to your application from the Police, the licensing inspector or the Medical Officer of Health, the committee must call a public hearing to consider the application. If this happens it will slow down your application. There has to be at least 10 working days' notice of any public hearing, for example.

The hearing itself takes time and more time is often needed for the decision to be prepared. This is why it's a good idea to apply for a special licence as early as possible.

If your special licence application relates to a large-scale event, the committee may ask you to:

- provide an *Event Management Plan* outlining how you propose to deal with matters such as security, monitoring, interaction with local residents, and public health concerns. The Health Promotion Agency has sample *Event Management Plans* and guidelines for large-scale events at hpa.org.nz (see Resources & research)
- provide Resource Management Act and Building Act certificates
- liaise with Police and council officers.

In making its decision the committee will consider the criteria for granting special licences under section 142 of the Act as well as any relevant case law.

Making your application

Complete your application forms

When you apply for a licence you need to complete the appropriate form(s), which is available on your council's website. Forms can vary slightly from council to council, but most contain similar questions. They generally require you to provide information about:

- you, the applicant. You might be applying as a 'natural person' – yourself – or as a company or other organisation. The information you provide should reflect this. You need to provide information about any criminal convictions you have. It's better to disclose these and explain them than not disclose them and end up being asked why you didn't
- the premises, including floor plans and photographs
- the rights or interests you have in the property (premises)
- the nature of the business (eg, hotel, tavern, bottle store, function centre)
- the proposed days and hours of sale
- the certified managers
- the experience and training of you and your staff
- what else is to be sold (such as food, non-alcohol drinks)
- the availability of free water
- host responsibility practices
- other council consents required (eg, building or resource consent, pavement permission for outdoor areas)
- health and safety requirements
- steps that you'll take to promote the safe consumption of alcohol
- steps that you'll take to ensure that the requirements of the Act are met in relation to the sale of alcohol to prohibited persons (ie, minors and intoxicated people).

You must make sure that you provide all the information asked for. If not, the progress of your application could be delayed.

Everything you include in your application becomes public information and can be looked at by the agencies that have a say in the licensing process. Members of the public who may be thinking about objecting to your application can also ask to see your application and supporting materials.

If your application is straightforward you should be able to fill in the form(s) yourself. If it's more complicated or you need help, you can consider getting professional advice or contact the licensing team at your council.

You can find information and resources about host responsibility, health and safety and much more at www.alcohol.org.nz. This information can help you to develop policies and practices so that your premises complies with all legislative requirements.

Pay your fees

There is a cost to apply for a licence and you need to pay the fee when you apply. This fee is for the application and is not refundable, even if your application is declined.

The fee is set out in regulations made by the Government, which requires councils to charge fees based on the risk ratings of premises. What this means is that applications that are assessed as having a greater risk of alcohol-related harm are charged more. You may need to calculate this risk yourself following the process set out in the council application forms.

The fee that you'll be required to pay may be prescribed in a bylaw made by your local council. If not, the default fees that are now payable are set out in the Sale and Supply of Alcohol (Fees) Regulations 2013 (the Regulations). You can find a free copy here: legislation.govt.nz/regulation/public/2013/0452/latest/DLM5708133.html?src=qs

Lodge your application

Once you've put together all the information required by the council, and paid your fee, you can lodge your application. You'll receive an acknowledgement that your application has been received by the council.

Give public notice of your application

Most applications require the applicants to put notices in local newspapers or a nominated internet site notifying the public of their applications, and put similar notices on the proposed premises. Council staff can help you with this. Many councils now have templates for public notices that they can give you. The Regulations set out the number and timing of notices. Some councils advertise public notices on their website; there may be no charge for that service. Your council will be able to advise you.

**Section 127
Section 101 Sale and
Supply of Alcohol
Act 2012**

**Border Rugby and Sports
Club Incorporated** has made
application to the District
Licensing Committee at
Hawera for the RENEWAL of
a(n) Club Licence in respect of
the premises situated at
Chester Street, Waverley
known as Waverley
Community Centre.

The general nature of the
business conducted (or to be
conducted) under the licence is
a Club.

The days on which and the
hours during which liquor is (or
is intended to be) sold under
the licence are **Monday to
Thursday 1pm to 10pm,
Friday, Saturday, Sunday,
and Public Holidays 1pm to
Midnight.**

The application may be
inspected during the ordinary
hours at the office of the South
Taranaki District Licensing
Committee at Albion Street,
Hawera.

Any person who is entitled to
object and wishes to object to
the issue of the licence may,
not later than 15 working days
after the date of the publication
of this notice, file a notice in
writing of the objection with the
Secretary of the District
Licensing Committee, South
Taranaki District Council,
Private Bag 902, Hawera.

No objection to the renewal of a
licence may be made in
relation to a matter other than a
matter specified in section 131
of the Sale and Supply of
Alcohol Act 2012.

This is the second publication
of this notice
This notice was first published
on May 1st 2014.

**Section 101, Sale
and Supply of
Alcohol Act 2012
Section 127**

**MANAIA GOLF CLUB
INCORPORATED, PO Box
117, Manaia,** has made
application to the District
Licensing Committee at
Hawera for the renewal of a
Club Licence in respect of the
premises situated at Bennet
Drive, Manaia known as
MANAIA GOLF CLUB. The
general nature of the business
conducted under the licence is
Club. The days on which and
the hours during which liquor is
sold (or is intended to be)
under the licence are Monday
to Sunday 11am to 1am the
following day. The application
may be inspected during the
ordinary hours at the office of
the South Taranaki District
Licensing Committee at Albion
Street, Hawera. Any person
who is entitled to object and
wishes to object to the issue of
the licence may, not later than
15 working days after the date
of the publication of this notice,
file a notice in writing of the
objection with the Secretary of
the District Licensing
Committee, South Taranaki
District Council, Private Bag
902, Hawera. No objection to
the issue of a licence may be
made in relation to a matter
other than a matter specified in
Section 105 (1) of the Sale and
Supply of Alcohol Act 2012. No
objection to the renewal of a
licence may be made in
relation to a matter other than a
matter specified in section 131
of the Sale and Supply of
Alcohol Act 2012. This is the
second publication of this
notice. This notice was first
published on May 1st 2014.

Assessment of your application

Several agencies are required to consider and report on your application. Also, some members of the public are entitled to raise objections to your application. All reports, opposition and objections must be based on the criteria in the Act (see Figure 6).

Reporting agencies

The council will forward a copy of your licence application to the reporting agencies that are required by the Act to consider, and in some cases report on it. These reporting agencies may contact you to discuss your application or to request further information to assist them in their reporting. The following 'agencies' may be given a copy of your application:

- The licensing inspector at your local council receives a copy of your application and has to report on it under the Act.
- New Zealand Police receives a copy and may report on it if it opposes it.
- The Medical Officer of Health receives a copy and may report on it if they oppose it.
- The New Zealand Fire Service may be given a copy, and asked to provide information, if the district licensing committee decides this is necessary.

Public objectors

Anyone with a 'greater interest' in the application than the public generally may object to the granting of an alcohol licence (section 102(1) of the Act). Examples of a person with a 'greater interest' include someone living or working near to the proposed premises. A member of the public living and working in another part of town, who's concerned about the general effects of alcohol on the community, is unlikely to meet the criteria for 'greater interest' than the public generally. The district licensing committee decides whether a person has a 'greater interest' so that the person has what is referred to as 'standing' to make a public objection to your application.

The grounds for a public objection

An objection for a new licence must be based on the criteria for assessing applications (see Figure 6). These are the only valid grounds for objection. The decision-makers can't take into account the impacts of the licence on business conducted under any other licence.

An objection to the renewal of an existing licence can only be based on the suitability of the applicant. There are no other relevant grounds. The criteria set out in Figure 6 do not apply to applications for renewals.

FIGURE 6**Criteria for assessing applications**

When deciding whether to issue an on-, off- or club licence, a district licensing committee or the Alcohol Regulatory and Licensing Authority must have regard to:

- the object of the Act
- the suitability of the applicant
- any relevant provisions in any local alcohol policy that exists and is in force
- the proposed days and hours of sale
- the design and layout of the premises
- the sale of other goods such as non-alcohol and low-alcohol drinks and food
- the provision of other services
- how the 'amenity and good order' of the area would be affected if the licence were or were not granted (see Figure 7)
- whether the applicant has systems, staff and training to comply with the law
- any matters in reports by the Police, the licensing inspector or the Medical Officer of Health.

The decision-makers can't take into account the impacts of the licence on business conducted under any other licence – this makes it clear that the potential for competition that might have negative impacts on another licensee is not a relevant consideration.

FIGURE 7**Amenity and good order**

District licensing committees and the Alcohol Regulatory and Licensing Authority have to consider 'amenity and good order' when deciding whether to grant a new licence or renew an existing one. For a new licence they must consider whether granting the application would reduce the amenity and good order of the locality to more than a minor extent (section 105(1)(h) of the Act). For a renewal they have to consider whether declining to renew the licence would increase the amenity and good order of the locality by more than a minor extent (section 131(1)(b)).

Amenity and good order is described in the Act (section 5) as the extent to which, and ways in which, the locality in which the premises is situated is pleasant and agreeable.

In deciding whether amenity and good order would be reduced or increased by more than a minor extent, the decision-makers must take into account (section 106):

- current, and possible future, levels of noise, nuisance and vandalism
- the number of other licensed premises in the area
- the compatibility of the proposed use with the current and future use of surrounding properties.

Decisions on applications

When your application has been lodged and all reports from the reporting agencies, and any public objections, have been received, the secretary of the district licensing committee sends these materials to the committee for it to consider and issue a decision.

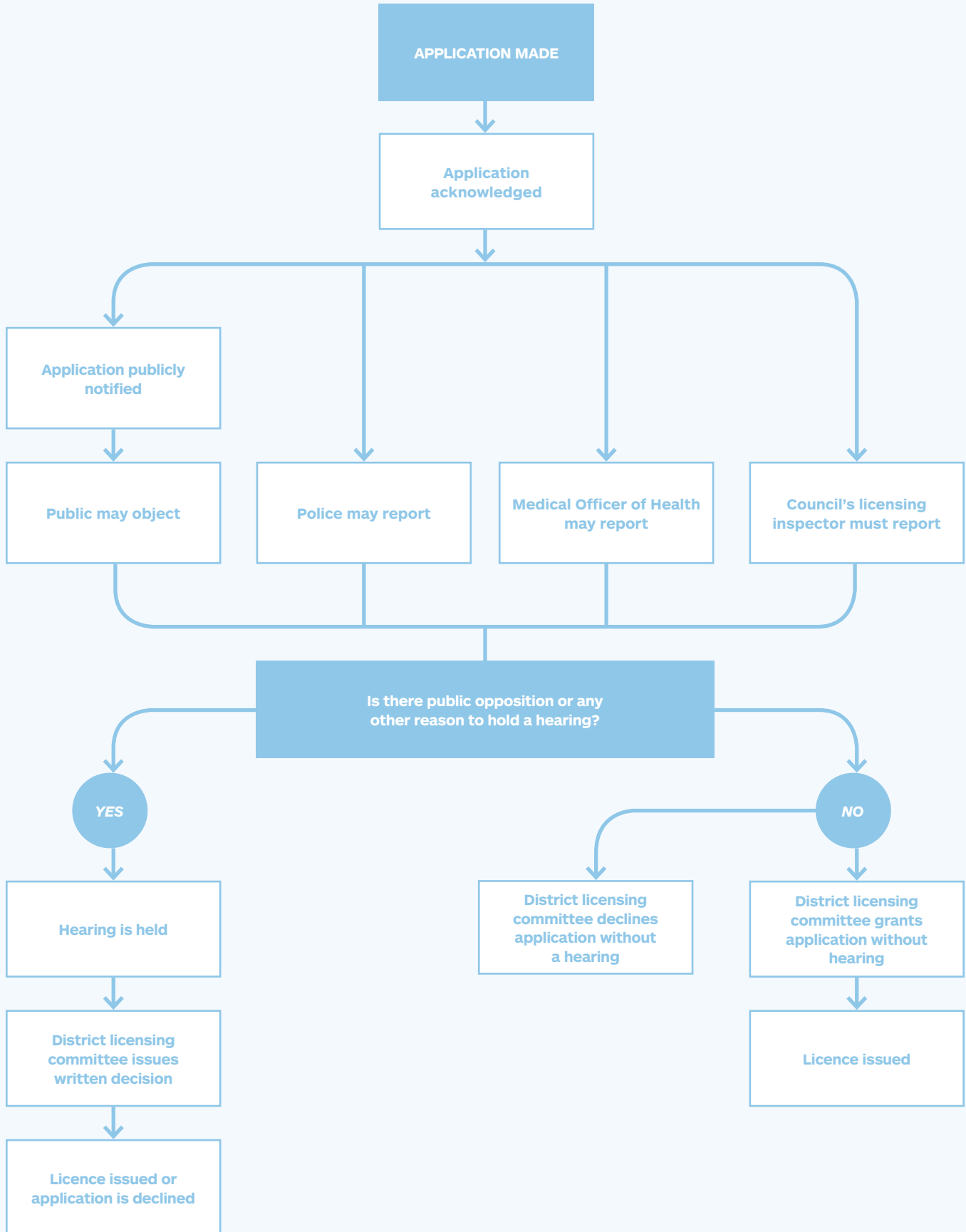
One of two things will then happen:

1. There'll be a hearing that you'll be called to attend. The Act says that this must happen if there are any public objections. It may also happen if there is any opposition from a reporting agency to your licence application. Also, if the district licensing committee is thinking of declining your application, or if it wants to impose conditions that you may find it difficult to meet, the committee is likely to arrange a hearing to give you a chance to have your say. If there is a hearing, a decision will be made following the hearing and the committee may decide to decline your application or approve your application with conditions (see Figure 9)
2. Alternatively, the district licensing committee will make a decision without a hearing ('on the papers'). In this case, unless you're applying for a temporary authority (which has to be considered by a full committee) the chairperson will make the decision.

District licensing committees have to consider a range of criteria when deciding licence applications (see Figure 6). Case law and guidance notes issued by the Alcohol Regulatory and Licensing Authority will also influence committee decisions. A guide to case law decisions can be found at www.alcohol.org.nz (see Alcohol management & laws).

Figure 8 sets out the process for issuing licences in more detail.

FIGURE 8
The process for issuing alcohol licences



District licensing committee hearings: an overview

In this section you can find out about what a district licensing committee is, its role, and the way it operates.

District licensing committees are set up under the Act and are administered by your local council. They're independent decision-making bodies. Within their local areas, district licensing committees decide applications for:

- new on-, off-, club and special licences
- renewals of on-, off- and club licences
- new and renewed managers' certificates
- variations of licence conditions
- enforcement action for special licences.

Each district licensing committee is made up of a chairperson (who can be either a councillor or a commissioner) and two members appointed from a list of members approved by the council. The committee members have experience relevant to alcohol licensing matters (and can include elected members of the council). A commissioner is someone who's not a councillor but has the required knowledge, skill and experience relating to alcohol licensing, and is appointed under the Act.

The members must not be people who could be biased due to their current involvement in the alcohol industry, and for each hearing there's a process to check that no one on a district licensing committee has any conflict of interest.

The role of the committee is to consider and decide licence applications. This includes listening to evidence and arguments for and against applications and making decisions on them. The committee is an independent and impartial body that makes its decisions by considering the reports and evidence presented to it against the criteria in the Act and any relevant case law. While the committee is administered by the council, and may include councillors, it makes its decisions independently of the council, according to the provisions of the Act.

If there are any public objections to your licence application or opposition from reporting agencies, or the district licensing committee decides that it wishes to call a hearing, you'll be required to attend a district licensing committee hearing.

If you don't attend a hearing that you're asked to attend, it's much less likely that your licence application will be successful.

Hearings are reasonably formal so that applications are dealt with consistently and fairly, and all parties are given a fair opportunity to present their cases. District licensing committees have powers under the Act to require documents to be provided and summon (ie, require attendance by) witnesses. Hearings are usually held at council offices, although the chairperson can decide to hold them somewhere else.

If you need assistance from a New Zealand Sign Language interpreter, or have English as a second language and need interpretation support on the day of a hearing, please let the council staff arranging the hearing know in advance. While the Act doesn't require district licensing committees to hear evidence in te reo Māori, the council may assist with this. Contact your council in advance to discuss your request.

District licensing committee hearings are open to the public, and the news media may be present. Sometimes the committee will decide to exclude the public from parts of the hearing, or limit the public release of information, for example for commercial or privacy reasons.



Preparing for your hearing

There is a lot you can do to prepare for your hearing so that it goes well on the day.

Notice of the hearing

The district licensing committee's support staff will advise you of the need to attend a hearing, the date and the venue, at least 10 working days before the hearing (unless you've agreed to an earlier date).

Before the hearing you'll receive copies of any objections from the public as well as any reports from the Police, the Medical Officer of Health and the council's licensing inspector.

The district licensing committee may send out pre-hearing directions, which are written instructions about administrative matters, such as when any extra written materials should be provided before the hearing. If this happens, you need to do what's requested.

Some district licensing committees hold pre-hearing meetings. These are voluntary and are an opportunity to clarify administrative matters before a hearing or reach an agreement by consensus, such as changing opening hours in response to public objections.

Get professional support if it will help

If you're new to the field or have a complex application, it may be worth considering professional advice for, and representation at, your hearing. This could be from lawyers, consultants or Hospitality New Zealand. This will ensure that you have all the information and support that you need so that the hearing runs smoothly. Think of it as an investment in your application. Good professional advice can save you money and time in the long run. It could mean the difference between a successful hearing and a declined application.

Consider whether you want to call witnesses on the day to support your case. These could be employees, certified managers, neighbours or expert witnesses with particular technical expertise. Check the costs before you employ an expert witness and make sure that they're able to present solid evidence to support your application and help the committee to make its decision.

Prepare your case

It's up to you to convince the district licensing committee that your application should be approved. Prepare your case and any evidence you need. Evidence is anything that backs up the facts in your application. It can be oral, written or visual – you can use photographs and drawings as evidence. Evidence should focus on facts, not emotions, and be directly relevant to your application.

You need to look at the criteria for assessing applications (see Figure 6). You need to demonstrate to the district licensing committee that your licence, if granted, would meet those criteria, for example it would not increase alcohol-related harm or have negative impacts on amenity and good order.

The district licensing committee may be bound by the decisions of some higher courts. So while you need to look at the Act for guidance on your application, you may also need to consider the relevant case law (see the next section for more information on this).

Prior to the hearing you may be sent an agenda, hearing information and possibly also evidence and submissions from other parties that they've agreed to pre-circulate. Read all this information before the hearing.

Review all the objections and any opposition to your application. Think about the issues that have been raised and how you could address them. The committee will want to hear your response to the matters raised in objections and opposition. For example, can you reduce noise levels, or change your opening hours, to address public objections?

You may wish to prepare a written statement for the hearing. This might cover any evidence you want to provide above and beyond what's in your application, along with any legal submissions you want to make. Identify the points you want to get across and back them up in your statement. Ensure that your evidence supports what you're saying.

Practise reading your statement. You want to get it right and look confident and comfortable. Practising will make sure you do.

Make copies of any evidence you'll put forward at the hearing (the council can advise you how many copies you'll need to take).

Make sure you know where the hearing is being held, and leave yourself plenty of time to find it.

Case law

When deciding a licence application, the district licensing committee has to consider a range of criteria set out in the Act (see Figure 6). It also considers any relevant 'case law'.

Case law means decisions made by courts and other decision-making bodies (eg, tribunals) that say what the law is.

When making its decisions, the district licensing committee looks to see whether there is any case law about the matters that it has to determine.

The case law to which a district licensing committee may refer could include decisions made by the Alcohol Regulatory and Licensing Authority, its predecessor the Liquor Licensing Authority and any higher courts (the High Court, the Court of Appeal and the Supreme Court) that relate to alcohol licensing matters.

You may need to consider relevant case law when preparing your application or materials for a hearing. For example, if you're thinking about how to 'minimise' alcohol-related harm, you might need to consider that the Alcohol Regulatory and Licensing Authority has defined 'minimised' as "reduced to the smallest amount, extent or degree" in the case *Penoy Spirits Ltd 2014 NZARLA PH697*. See <http://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZARLA/2014/697.html?query=penoy%20spirits>

The Health Promotion Agency has developed a guide to case law decisions made under the Act and its predecessor the Sale of Liquor Act 1989. It can be found at www.alcohol.org.nz (see Alcohol management & laws).

The guide sets out some relevant case law under topic headings such as:

- amenity and good order, design and layout
- days and hours
- new off-licence (opposed) – criteria sections 105 and 106
- object of the Act – SSAA.

The New Zealand Legal Information Institute has case law online, including in its databases for Liquor Licensing Authority decisions up until 21 December 2012 and Alcohol Regulatory and Licensing Authority decisions from 2013 (see [nzlii.org](http://www.nzlii.org)).

What happens at a hearing

Depending on the nature of the case, hearings can last anywhere from half an hour to a full day or several days. If you're unsure about how much time you need to put aside, ask council staff how long they expect your hearing to take. It's important that you can stay for the entire hearing; make sure that you're organised and prepared for this.

While all district licensing committees follow the same basic processes, each operates slightly differently. Some are less formal, operating more like a meeting, while others are more formal and operate more like a court.

Who else will be at the hearing?

As well as you – the applicant – and any representatives, lawyers or witnesses you bring to the hearing, there will be other people present. Those likely to attend include:

- the district licensing committee chairperson and members, and their committee advisors
- the Medical Officer of Health or their representative
- representatives of the Police
- the council's licensing inspector
- other council officers, to give reports or technical advice to the committee
- objectors and any associated representatives, lawyers and witnesses
- members of the public
- news media representatives.

The hearing process

The order of speakers may vary from hearing to hearing, but the chairperson of the committee will outline the order of the day at your hearing. In general, hearings follow this format:

Opening and introduction

The chairperson introduces the committee members and advises which licence application is being heard. You and the other parties are asked to introduce yourselves. The chairperson gives a brief outline of the hearing procedure. The chairperson also confirms that they and the committee members don't have any conflicts of interest and are able to consider your application impartially.

The applicant presents

You (either personally or through a representative) introduce your application and present your case. You can ask witnesses to speak in support of your application. If you're giving evidence you'll be asked first to swear an oath (on a holy book such as the Bible) or give an affirmation (a solemn promise) that what you say will be the truth. All witnesses you have need to do this too.

The committee may have questions for you and your witnesses. The chairperson then invites the reporting agencies (Police, Medical Officer of Health and licensing inspector) and any objectors to ask questions. This questioning is called cross-examination.

Reporting agencies speak

The Police, Medical Officer of Health and council licensing inspector make submissions about your application and are all sworn in (by oath or affirmation) before presenting any evidence they wish to give. They must answer questions from the committee. As the applicant you may also ask them questions when it's your turn to cross-examine.

Objectors present

Any public objectors who wish to speak can talk about their objections – in person or through representatives. At the hearing they can't introduce new grounds for objecting, but can present evidence to support their reasons for objecting. If they want to present evidence they are sworn in. Objectors can also call witnesses to support their cases. The committee members or chairperson may have questions for the objectors or their witnesses. You, as the applicant, and the reporting agencies can also ask objectors and their witnesses questions about their evidence.

Closing statements

Each party usually has a chance to make closing remarks to sum up their case. This can include responding to any arguments made during the hearing; however, no new evidence can be introduced at this stage. You may wish to highlight any relevant case law and say how it relates to your case and the evidence you have brought. As the applicant you get the last say.

The conclusion of the hearing

The chairperson advises everyone that the public part of the hearing is finished and outlines the next steps.

All committee decisions are issued in writing. Generally, the committee issues a written ('reserved') decision to the applicant and other parties some time after the day of the hearing. Sometimes the committee confers in private for a short time and delivers an oral decision on the day, with the written decision issued later.

How to do well at your hearing

You want to make a good, strong impression at the hearing. You need the committee to focus on your statement and your evidence. Here are some tips to help you do well on the day:

- Plan what you wish to say carefully, and practise reading it if you've written it down before the hearing. Providing a 'brief of evidence' that outlines or summarises your evidence is a good idea.
- Be professional. A hearing is a formal process and district licensing committees have legal authority and powers. Think of the committee hearing as a court and act accordingly.
- Dress appropriately.
- When you arrive, introduce yourself to the council staff. You'll be asked to fill in an attendance sheet.
- If you've brought copies of documents, give these to the council staff or let them know if copies need to be made.
- The staff will let you know where to sit and what will be happening.
- You can expect the committee to treat you with dignity and respect, and to put you at ease. You should treat the committee members with respect too.
- Turn off your cell phone while you're at the hearing, or put it in silent mode.
- Assume that the committee has read any written material that you've sent in advance. If you've sent a written statement before the hearing, the members may not want you to read it out and may instead ask if you have anything to add and ask you questions. Be guided by the chairperson.
- You'll be sworn in when you give evidence. You can choose to swear on the Bible or another sacred text (eg, the Koran) or make an affirmation (a non-religious solemn promise).
- When you speak, introduce yourself. If you represent a group, explain how its views were gathered.
- Speak slowly, clearly and loudly enough to be understood. Try not to repeat yourself.
- Be direct and to the point; focus on the facts and not personalities or emotions.
- Stick with what you know. Use expert witnesses if you need to, but don't pretend to be one yourself if you're not.
- Give your evidence, then wait and respond to cross-examination or questions. If you're asked a question, try to respond or say you don't know. Take your time and take a moment to collect your thoughts before answering.
- Speak to the committee chairperson even when you're being questioned by others.
- During your opportunity to cross-examine you get to question others who give evidence. At this time you must ask questions; you can't make statements. Focus on the issues, the evidence and the legislation, not on personalities or emotions.
- Remember that the hearing committee is impartial. If they're councillors, they're not there as politicians but as decision-makers who have to weigh up both sides of an argument. Don't use the hearing to discuss other issues; focus on the application and the issues at hand.
- There may be media attending who want to report what you've said and they may ask you questions after the meeting. It's your decision to talk to the media or not.
- Remember that everything you say is part of the public record. All evidence and submissions given at a hearing can become public and are made available at the hearing. Some councils may post such materials on a selected website.

Rights and rules at hearings

You have certain rights when you appear at a district licensing committee hearing. You must also follow some rules.

Can I choose who's on the committee?

You can't choose who's on the district licensing committee for your hearing. If you have any concerns about who'll be hearing the application (for example, if you consider that one of the members has a conflict of interest with your case), you can raise this with council staff. It's best to do this before the hearing, but it's possible to raise issues on the day. In some cases the council will decide to change the hearing members, but only if it considers that there are good grounds for doing so and no one is disadvantaged by the decision.

Can I have support people?

Yes. Your friends, family and supporters can come to the hearing. You can call them as witnesses to speak on your behalf. But it's the quality of the argument that's important – not the number of people at the hearing.

Can I ask questions?

When carrying out cross-examinations of the parties you can question them directly about their statements or evidence.

The committee can question you at any time during the hearing. The other parties can only question you during cross-examination when you present your evidence. If you want to respond to evidence given, you can only do this with a question during your opportunity to cross-examine. If you identify an issue that you wish to ask a question about during your cross-examination, you should write it down and use it at the correct time.

The committee will act as neutral referee should any disagreements or process issues arise. It will keep the parties and hearing on track.

Will I be cross-examined?

Cross-examination means being asked questions by other parties. These can include the applicant, objectors, Police, the Medical Officer of Health and the licensing inspector. All parties with speaking rights at the hearing have an opportunity to ask questions of a party giving evidence. All parties are asked to take an oath or affirmation before giving evidence.

What will it cost me?

As noted earlier, there is a cost to apply for an alcohol licence. But there's no additional cost to the applicant if a district licensing committee hearing is required. However, you're responsible for paying for your own costs, such as travel to and from the hearing, time off work, and any lawyers' or professional fees incurred for the hearing.

What happens after your hearing

After the hearing has finished the committee meets privately and makes a decision on the application. This is in writing, giving the reasons for the decision and summarising the evidence and arguments at the hearing. You, along with the other parties, will be sent a copy of the decision. It may take a number of weeks for the decision to be issued.

If the licence is granted, it will be granted with conditions. You'll receive the decision and licence by post. If you disagree with the conditions you can appeal them to the Alcohol Regulatory and Licensing Authority.

If the licence isn't granted you have two main options. The first is to end the process there. The second is to appeal to the Alcohol Regulatory and Licensing Authority, which can reconsider the matter.

All those who took part in the hearing have the right to appeal to the Alcohol Regulatory and Licensing Authority if they are dissatisfied with the decision or any part of the decision.

In some situations the decision will be suspended pending the outcome of the appeal. This means that the licence can't be used until the appeal is resolved.

An appeal must be lodged with the Alcohol Regulatory and Licensing Authority within 10 working days after the district licensing committee decision is supplied. You must notify the other parties to the hearing that you've appealed. There is a fee for appealing to the Authority. For more information on appeals, go to justice.govt.nz/tribunals/alcohol-regulatory-and-licensing-authority

If your application was first considered by a district licensing committee, the only appeal right is to the Alcohol Regulatory and Licensing Authority. If the Authority was the first body to consider the application, its decision can be appealed to the High Court. Decisions of the Authority can be appealed to the High Court, then to the Court of Appeal and up to the Supreme Court.

FIGURE 9**Conditions on licences**

The Act requires some conditions to be imposed on all licences. The district licensing committee or the Alcohol Regulatory and Licensing Authority may impose others at their discretion.

Compulsory conditions

The Authority or licensing committee must ensure that every licence it issues is subject to conditions:

- stating the days on which and the hours during which alcohol may be sold and supplied
- a place or places on the premises at which drinking water is to be freely available to customers while the premises is open for business
- fees payable.

Discretionary conditions

Depending on the type of licence, the district licensing committee or the Authority may impose the following conditions:

- Prescribing steps to be taken by the licensee to ensure that the provisions of the Act relating to the sale or supply of alcohol to prohibited persons are observed
- Prescribing steps to be taken by the licensee to ensure that the provisions of the Act relating to the management of the premises concerned are observed
- The people or kinds of person to whom alcohol may be sold or supplied
- One-way door restrictions
- In the case of a club licence or an on-licence endorsed under section 37 of the Act, conditions requiring a manager to be on duty
- For large-scale events, liaison with the Police and a plan to manage security, public health, monitoring and interactions with local residents
- Prescribing the kinds of alcohol that can be sold or delivered from the premises
- Requiring food, low-alcohol and non-alcohol beverages to be provided
- Providing information about forms of transport from the premises
- Requiring alcohol to be sold and supplied in particular containers (eg, plastic)
- Any other reasonable condition.

Appendix 1: Useful contacts and information sources

The following people can help you with information and resources:

- The licensing inspector at your local council
- The alcohol harm reduction officer at your local Police station
- The public health unit at your local district health board
- Regional managers at the Health Promotion Agency
- Hospitality New Zealand.

You can find out how to contact them below, along with websites that contain useful information for you as you complete your application and prepare for any hearings.

Councils

You may wish to get in touch with the licensing inspector at your local council. To find your local council, go to localcouncils.govt.nz

Your council could help you with information about the number and locations of current licensed premises, and opening and closing hours, in your neighbourhood. Councils also have information about the locations of existing alcohol control bylaws (liquor bans).

Police

Get in touch with the alcohol harm reduction officer at your local Police station through police.govt.nz/contact-us. They should be able to provide you with information on breaches of alcohol control bylaws, including:

- age and gender of people arrested/convicted for breaches
- an analysis of breaches by time and day of the week.

Public health units/Medical Officer of Health

Your local public health unit should be able to help you find information about the impacts of alcohol-related harm in your community.

Health Promotion Agency

The Health Promotion Agency took over all functions previously undertaken by the Alcohol Advisory Council (ALAC) in 2012. The work that it undertakes aims to prevent and reduce alcohol-related harm and inspire New Zealanders to make better decisions about drinking alcohol.

You can contact the regional managers of the Health Promotion Agency at hpa.org.nz/contact-us-1

The Health Promotion Agency also provides www.alcohol.org.nz, which contains a wide range of useful information about alcohol laws, research and resources.

Hospitality New Zealand

For information and resources to support those in the hospitality industry, go to hospitalitynz.org.nz

Sale and Supply of Alcohol Act 2012

For free access to copies of the Act and the Regulations made under it, go to legislation.govt.nz and enter 'Sale and Supply of Alcohol Act 2012'.

Case law

A guide to case law decisions can be found at www.alcohol.org.nz (see Alcohol management & laws).

The New Zealand Legal Information Institute has databases for Liquor Licensing Authority decisions up until 21 December 2012 and for Alcohol Regulatory and Licensing Authority decisions from 2013 (see nzlii.org).

Alcohol Regulatory and Licensing Authority

For more information on appeals to the Alcohol Regulatory and Licensing Authority, go to justice.govt.nz/tribunals/alcohol-regulatory-and-licensing-authority

The demography of a district's residents and visitors

Some information about the people in your district is available from the 2006 and 2013 Censuses at Statistics New Zealand.

Council profiles are available on the Department of Internal Affairs' website.

