

Chairperson and Committee Members
REGULATORY MANAGEMENT COMMITTEE

20 NOVEMBER 2014

Meeting Status: **Public**

Purpose of Report: For Information

DISTRICT LICENSING COMMITTEE/ SALE AND SUPPLY OF ALCOHOL ACT 2012 UPDATE

PURPOSE OF REPORT

- 1 To update the Regulatory Management Committee on the work carried out by the District Licensing Committee (DLC) and Environmental Health Team over the past year and confirm a regular feedback mechanism and reporting structure for the future.

SIGNIFICANCE OF DECISION

- 2 This report does not trigger Council's significance policy.

BACKGROUND

- 3 The DLC has been established for 11 months and has been considering and making decisions on licence and managers certificate applications since December 2013.

The role of DLC's

- 4 DLCs decide applications for:
 - new and renewed licences and managers' certificates, regardless of whether these are contested
 - temporary authority orders
 - variation of licences, and
 - special licences.
- 5 Contested applications are applications opposed by licensing inspectors, Police or Medical Officers of Health, or objected to by members of the public. Only people with a greater interest than the public generally can object to licence applications.
- 6 If an application for a Licence or Managers Certificate is uncontested, the Chairperson alone can decide the application. DLC's can refer applications to the Alcohol Regulatory Licensing Authority (ARLA) for decision if ARLA's Chair agrees.
- 7 The full Committee comprises two members and a chair; the members being selected from a list of five members approved by Council. The five members are Michael Dodson, Trevor Knowles, Phillip Parkinson, Samantha Sharif and Hilary Wooding. The Chair is Cr Diane Ammundsen and the Deputy Chair is Cr Murray Bell.

- 8 Generally most applications can be considered “on the papers” received and can be considered and decided by the Chairperson alone, as a quorum of one.
- 9 All those involved; including Committee members; Chair/Deputy Chair and staff have undertaken training provided through Central and Local Government providers.
- 10 Since the commencement of the Sale and Supply of Alcohol Act 2012 the following applications have been addressed by the DLC:

ITEM	No.	COMMENT
Club licence	2	Includes new applications and applications to vary licence conditions
Managers Certificates	126	Includes new applications and renewals of applications
Off / On licences	39	Includes new applications and renewals of applications
Special licences	95	Includes: Class 1 – 9 Class 2 - 32 Class 3 - 54
Temporary Authority orders	14	These allow a new owner to continue trading for three months while they apply for their own licence
Hearings	4	There have been four hearings held by the committee. They were: <ul style="list-style-type: none"> - Paekakariki Football Club (Dug Out) - Otaki Four Square The Otaki Four Square did not meet the definition of a Grocery Store and a limited renewal of the off licence was granted to enable them to sell off existing alcohol stock - Kapiti New World The Kapiti New World decision has been appealed by the Police, a date has not yet been set for the appeal - Raumati Village Liquor Centre

- 11 The table above provides a summary of all types of licence; certificate and orders that the DLC deals with on a regular basis and includes all work up to and including the end of October 2014 (approximately 11 months).

Initiatives

- 12 To enable processing of applications and to assist the industry and applicants, a number of initiatives have been introduced by the DLC through staff which include:
- The use of teleconference facilities to enable Temporary Authorities (TA's) to be addressed by the full Committee. Prior to this a full meeting was held requiring travel by Committee members and use of a full meeting facility. The teleconference option eliminates travel, saving considerable time and cost; yet meeting the statutory requirements under the Act.
 - Introduction of a quarterly licensee newsletter. The newsletter provides background into legislative changes affecting various sectors of the industry, how to prepare for upcoming changes and what they will need to do to meet statutory requirements.
 - All applicants for Special Licences from the previous year were contacted and advised of the changes to the Act and any potential cost implications. Some of the changes highlighted included longer lead in times for applications; changes to Special licence numbers per annum and Special licence costs.
 - Staff visited certain licensed and unlicensed Clubs to help with advice about the new Act regarding changes and potential obligations.
 - Information was sent to 'Grocery' stores relating to the requirements under the Act showing the need to provide certified annual sales revenue figures confirming that the primary business is still that of a "Grocery store". Also the licensees were advised about the requirement to provide "Single alcohol areas" under the Act. (A single alcohol area is intended to restrict the location of the area used to display alcohol within the store).

Issues

- 13 Various issues have been identified since the DLC took on the decision making process for alcohol work under the Act. Some of these have been noted countrywide and have been relayed to ARLA. These items include:
- The application forms have become complex under the new Act and could be made easier for applicants if the prescribed requirements were to be reviewed.
 - Temporary Authority (TA) applications require a full Committee to consider them when it would be more efficient and cost effective to have the Chair consider and make a decision on the applications based on the papers alone. This is an anomaly because these applications do not require reporting by the agencies and the DLC has very little information on which to base a decision.
 - Due to a lack of case law and clear definitions within the Act, there has been a variance in decisions made by DLC's in relation to what satisfies the criteria for a single alcohol area. Many of these decisions have been

appealed, often by the Police or Medical Officer of Health. Recently ARLA issued a practice direction to DLC's suggesting they consider refraining from making any decisions on renewals or new applications until such time as the first two ARLA appeals are determined sometime after December 2014.

The Act introduced some new definitions intended to ensure that Dairies or Convenience stores cannot be issued an off licence and stores have to meet the definition of a Grocery Store in order to gain an off licence or have their off licence renewed. The definition of a 'Grocery' store requires that operators demonstrate their principal business is the sale of food (as shown by providing certified sales revenue figures). This was intended to rectify a situation where many convenience stores had been issued with off licences in the past. While staff consider that this has not occurred in this area, it is considered that some stores in this district and country wide will struggle to meet the definition, especially if located near to supermarkets in low decile areas.

- 14 The items above have been communicated to ARLA at the time of providing them the DLC annual report in August.
- 15 The new Act considerably changed requirements and workload for the staff involved. This has had a negative impact on other KPI's within the Health area and for the first time some KPI's in the Annual Plan were not achieved. The Council were advised when the Annual Report 2013/14 was recently adopted.

Proposed future reporting in relation to DLC matters

- 16 This report is the first formal report to the Committee with respect to the activities of the DLC since implementation. It is proposed that staff provide regular updates to the Committee as part of the agenda item, "Matters under Action", at each meeting. These reports would briefly go over current issues; numbers and types of applications being addressed by the DLC and any particular points of interest including legal decisions and landmark cases.

Financial Considerations

- 17 There are no specific financial considerations with regards to this report, however it should be noted that the Council must make publicly available each year a report showing its income from fees and its expenditure in relation to:
 - the performance of the functions of its licensing committee; and
 - the performance of the functions of its inspectors; and
 - undertaking enforcement activities under the Act

- 18 The first financial report is due after 1 July 2015.

Legal Considerations

- 19 There are no legal considerations with respect to this report.

Delegation

- 20 The Committee has the relevant delegated authority as recorded in the 'Governance structure and delegations 2013 – 2016 triennium' The delegation is under Section B.2 7.13; "Authority to exercise all of the Council's functions, duties and powers under the Sale of Liquor Act 1989 (until 17 December – the new Sale and Supply of Alcohol Act 2012 comes into force on 18 December 2013).

Consultation

- 21 There is no requirement for consultation with regards to this report.

RECOMMENDATIONS

- 22 The Committee receives the report and notes that regular updates will be provided.

Report prepared by:

Nick Fowler

Environmental Standards Manager

Approved for submission by:

Sharon Foss

Acting Group Manager Regulatory Services