

Western Bay of Plenty District Council

**Minutes of Meeting No. DL7 of the District Licensing Committee
held on 1 March 2018 in the Council Chamber, Barkes Corner, Tauranga
commencing at 9.30am**

Present

M Jones (Chairperson), Councillors D Thwaites (Deputy Chairperson) and P Mackay

In Attendance

A Curtis (District Licensing Secretary/Compliance and Monitoring Manager), D Elvin (Liquor Licensing Inspector), B Brown (Compliance Officer), D Coulter and D Stewart (Compliance Administration Officers), and B Clarke (Democracy Advisor)

Others

As listed in the minutes.

Late Items

The Chairperson advised that there were two late items for inclusion in the open section of the agenda, being LL7111 Application for Temporary Authority - Applicant Karamjeet Singh Hothi (Jayson Holdings Ltd); and LL7120/Off licence, LL7131/On licence Application for Temporary Authorities - Applicant Vidler Investments Ltd).

The reason that these items were not included on the agenda was that the applications had not been received at the time of agenda close, and they could not be delayed to the next scheduled District Licensing Committee meeting because they needed to be dealt with expediently.

Resolved: Mackay / Thwaites

THAT, in accordance with Section 46A (7) of the Local Government Official Information and Meetings Act, the following items be considered as late items of open business:

- *LL7111 Application for Temporary Authority - Applicant Karamjeet Singh Hothi (Jayson Holdings Ltd) for premises at 137 Jellicoe Street, Te Puke trading as Te Puke Four Square*

- *LL7120/Off licence, LL7131/On licence Application for Temporary Authorities - Applicant Vidler Investments Ltd) for premises at 60 Wilson Road, Waihi Beach trading as Waihi Beach Hotel.*

DL7.1 **Conflict of Interest Declaration**

Commissioner Jones (Chairperson), and Councillors Mackay and Thwaites, being members of the District Licensing Committee Panel appointed, declared that they had no conflicts of interest in relation to any of the following applications being considered:

- Application LL6920 for a Renewal of Manager's Certificate made by Jigneshkumar Patel in relation to a premise located at 211 Seaforth Road, Waihi Beach, trading as Waihi Beach Superette.
- Application LL7049 for a New Manager's Certificate made by Avinash Singh in relation to a premise located at 21 Plummer's Point Road, Whakamarama, trading as Sandhu Bar.
- Application No. LL7111 for Temporary Authority - Applicant Karamjeet Singh Hothi (Jayson Holdings Ltd) for premises at 137 Jellicoe Street, Te Puke trading as Te Puke Four Square
- Applications No. LL7120 (Off licence) and LL7131 (On licence) for New Temporary Authorities - Applicant Vidler Investments Limited for premises at 60 Wilson Road, Waihi Beach trading as Waihi Beach Hotel

DL7.2 **Hearing: Application No. LL6920 for a Renewal of Manager's Certificate under Section 224, Sale and Supply of Alcohol Act 2012 - Applicant: Jigneshkumar Patel in relation to a premise located at 211 Seaforth Road, Waihi Beach, trading as Waihi Beach Superette**

The Committee considered the application and related documentation as circulated.

Chairperson's Introduction

The Chairperson welcomed those present and introduced staff, noting that the Committee had been appointed to hear evidence in relation to the application received for a Renewal of Manager's Certificate, which was opposed by the Liquor Licensing Inspector. He further noted that the Committee had read all evidence that had been circulated, and that all parties with speaking rights had the right to cross-examine the party giving evidence.

The Chairperson noted that although he had been given the opportunity to attend, Mr Jigneshkumar Naginbhai Patel (the Applicant) was not present.

Appearances for Reporting Agencies

- Dougal Elvin, Liquor Licensing Inspector

- Sergeant Trevor Brown, NZ Police - Liquor Licensing Coordinator (Western Bay of Plenty)

1. Evidence for Applicant

The Applicant was not in attendance and had provided no documentation.

2. Liquor Licensing Inspector's Report

The Committee considered a report from the Liquor Licensing Inspector dated 12 January 2018 and a Brief of Evidence. The Liquor Licensing Inspector was sworn in and tabled further evidence noting the following key points:

- The manager on duty at any licensed premises was responsible for the compliance and enforcement of the provisions of the Sale and Supply of Alcohol Act, the conditions of the licence in force for the premises, and the conduct of the premises with the aim of contributing to the reduction of alcohol-related harm.
- The applicant had held a Duty Manager's Certificate since 4 September 2013, and had been working at the Waihi Beach Superette. This application was for the second renewal of his Manager's Certificate.
- The application was opposed on the grounds that the applicant had failed to demonstrate that he had the necessary knowledge and skills to uphold the Act.

The Liquor Licensing Inspector responded to questions from the Committee as follows:

- In terms of any assurances on the quality of past training the applicant had received, he could not say, but the situation had raised concerns for him as to how a person could have Manager's Certificates and not have an appropriate level of knowledge. The applicant appeared uncertain about the four signs of intoxication and as he was a Manager, that was a concern.
- He was certain this applicant had been identified as the correct person, as when an applicant applied for a renewal they had to provide photographic evidence for identification purposes. However, he had a concern as to whether this person was the same person who had taken the test and passed it the first time, as this test had proven this person did not have sufficient knowledge to pass.
- This Council was setting a high standard for duty managers in its district. He had set the questions in the test based on the knowledge required, and was satisfied that the questions reflected the standard Council wished to achieve. Sometimes there was no right or wrong answer but rather, the onus was on the applicant to provide confidence that the question and solution had been appropriately considered. It was about responders being aware,

taking the time to think about the objectives of the Act and then being able to do the right thing.

- In relation to consistency with other districts, he had been a Licensing Inspector in Auckland for three years. Some of the questions in the test had been taken from the Auckland test with minor adaptations for suitability in this district, as these were highly appropriate questions. He would welcome feedback, should the Committee consider any of the questions too difficult, and if so, they could be adapted as considered appropriate.
- On the first test paper, he posed the questions and then provided some help in case people did not fully understand the questions. With the second text, applicants were given the opportunity to take the test in writing, as some people read questions and understood them better than if they heard them. He provided every opportunity to reasonably assist applicants, but at the end of the day, they still must be tested.
- He had interviewed 94 people, 63 of those for new applications and 31 for renewals. Of those, only eight had to come back for a second interview, so it was fair to say that the majority passed the test quite easily.

Cross Examination

The Liquor Licensing Inspector responded to a question from the Police noting that, in relation to the Committee granting this applicant a Manager's Certificate in the past, that had been brought before the committee under the previous Licensing Inspector, so he was unable to comment further.

Clarification

Through the Chairperson, the Compliance and Monitoring Manager advised that the previous Licensing Inspector was a contractor who had kept records on his premises. Only final reports were provided for consideration by the committee, as was the case with this applicant previously.

Cross Examination

The Liquor Licensing Inspector responded to a question from the Committee noting that, in relation to help for people who had failed the test, most came back strong in their knowledge as they took the opportunity to revise, and in that respect, most achieved a pass on the second attempt.

3. NZ Police Report

Sergeant Trevor Brown, NZ Police - Liquor Licensing Coordinator (Western Bay of Plenty) advised that there was no further evidence from the Police, other than the report which had been provided and circulated. That report stated that Police had no issues with the renewal.

The Chairperson thanked the reporting agencies and reiterated that it was unfortunate that Mr Patel had not attended the hearing.

10.00am

The Chairperson noted that the evidential part of this hearing was now closed. He advised that, as the Committee would be considering a second application for an opposed Manager's Certificate later in the morning, he would reserve the deliberations and decisions for both applications until both matters had been heard.

Change to the Order of Business

The Chairperson requested that the next items of business be applications LL7111, LL7120 (Off licence) and LL7131 (On licence) for Temporary Authorities, while awaiting the arrival of the applicant for the next Managers Certificate hearing.

Resolved: Chairperson Jones / Thwaites

THAT in accordance with Standing Orders the order of business be changed and that the items applications LL7111, LL7120 (Off licence) and LL7131 (On licence) for Temporary Authorities be dealt with as the next items of business, while awaiting the arrival of the applicant for the next Manager's Certificate hearing.

DL7.3

Application No. LL7111 for Temporary Authority - Applicant Karamjeet Singh Hothi (Jayson Holdings Ltd) for premises at 137 Jellicoe Street, Te Puke trading as Te Puke Four Square

The District Licensing Committee considered the application and following documentation as circulated with the agenda:

- a) Application received 7 February 2018
- b) Report from Liquor Licensing Inspector dated 14 February 2018
- c) Report from NZ Police dated 13 February 2018.

The Compliance and Monitoring Manager introduced the application. Both the Liquor Licensing Inspector and Police advised that they had no opposition to the application.

The Chairperson thanked staff and the reporting agencies.

Resolved: Thwaites / Mackay

THAT LL7111 Application for Temporary Authority - Applicant Karamjeet Singh Hothi (Jayson Holdings Ltd) for premises at 137 Jellicoe Street, Te Puke trading as Te Puke Four Square be granted.

DL7.4

Applications No. LL7120 (Off licence) and LL7131 (On licence) for New Temporary Authorities - Applicant Vidler Investments Limited for premises at 60 Wilson Road, Waihi Beach trading as Waihi Beach Hotel

The District Licensing Committee considered the application and following documentation as circulated with the agenda:

- a) Application for On licence received 9 February 2018
- b) Report from Chief Licensing Inspector dated 22 February 2018
- c) Reports from NZ Police for On-licence and Off-licence both emails dated 20 February 2018.

The Compliance and Monitoring Manager introduced the application, noting that this was a new venture for the applicants, as they had not operated a hotel before. Staff were conscious that this was one of the larger and busier establishments in the district.

The Liquor Licensing Inspector advised that staff were aware that the Waihi Beach Hotel had a history of issues in the past. However, those issues had been resolved with good work and good Duty Managers. The applicant had advised that they did not wish to change the status quo, and would be keeping all the Duty Managers. In fact, they had stated that they wanted to make the hotel an integral part of the community in a positive way. Therefore, he had not opposition to the application.

The Police noted they had no opposition to the application. The Chairperson thanked staff and the reporting agencies.

Resolved: Chairperson Jones / Mackay

THAT applications LL7120 (off-licence) and LL7131 (on-licence) for New Temporary Authorities - Applicant Vidler Investments Limited for premises at 60 Wilson Road, Waihi Beach trading as Waihi Beach Hotel be granted.

10.05am The hearing was adjourned awaiting the arrival of the applicant for the next application for a Manager's Certificate.

10.20am The hearing was reconvened.

DL7.5

Hearing: Application No. LL7049 for a New Manager's Certificate under Section 219, Sale and Supply of Alcohol Act 2012 - Applicant: Avinash Singh in relation to a premise located at 21 Plummer's Point Road, Whakamarama, trading as Sandhu Bar

The Committee considered the application and related documentation as circulated.

Chairperson's Introduction

The Chairperson welcomed the applicant and introduced all parties and staff, noting that the Committee had been appointed to hear evidence in relation to the application received for a Renewal of Manager's Certificate, which was opposed by the Liquor Licensing Inspector. He further noted that the Committee had read all evidence that had been circulated, and that all parties with speaking rights had the right to cross-examine the party giving evidence.

Appearances for Reporting Agencies

- Dougal Elvin, Liquor Licensing Inspector
- Sergeant Trevor Brown, NZ Police - Liquor Licensing Coordinator (Western Bay of Plenty)

1. Evidence for Applicant

Avinash Singh was sworn in. He stated that he had no evidence to present but would respond to questions.

Mr Singh responded to questions from the Committee in relation to whether he had studied or otherwise prepared for the Manager's Certificate test. He advised that he had originally attended a training course in Rotorua in January 2017, and before undertaking that course he had studied, but had not studied since that time.

Cross Examination

Mr Singh responded to a question from the Liquor Licensing Inspector, noting that Trading hours and public holidays should appear on a licence to sell and supply alcohol.

Mr Singh responded to questions from the Police in relation to the object of the Act, and how to manage the sale of a product that could be harmful in the community. He responded to further questions as follows:

- He had gone to a training course in Rotorua, rather than Tauranga, because his friend had advised him to go there. He would consider going to a training course in Tauranga to upskill.

- As Duty Manager, he had to make sure customers showed identification to prove they were not underage, and if a person appeared to be getting intoxicated, he had to make sure they had some food. If customers were fighting, he would call the Police.

Mr Singh responded to a question from the Committee in terms of his recent experience within the liquor industry, noting that he sold alcohol to customers, and had been working in the industry for a year in the Sandhu Bar.

Mr Singh responded to questions from the Liquor Licensing Inspector as follows:

- His place of work was the Sandhu Bar. It was a normal bar but had limited food, as it did not have kitchens, so they sold pies and similar food.
- Customers usually drove to the bar. The bar had a breath-testing machine available for customers.
- If a customer was drinking too much staff would provide a transport service by calling a taxi for the customer, but he could not remember the last time he had called a taxi personally.

2. Liquor Licensing Inspector's Report

The Committee considered a report from the Liquor Licensing Inspector dated 18 January 2018 and a Brief of Evidence. The Liquor Licensing Inspector was sworn in and tabled further evidence noting the following key points:

- The manager on duty at any licensed premises was responsible for the compliance and enforcement of the provisions of the Sale and Supply of Alcohol Act, the conditions of the licence in force for the premises, and the conduct of the premises with the aim of contributing to the reduction of alcohol-related harm.
- The applicant had applied for a Manager's Certificate in order to be a qualified Duty Manager at his place of work, the Sandhu Bar, which was a tavern situated in Whakamarama. He was currently working in the Sandhu Bar as an Assistant Manager.
- The application was opposed on the grounds that the applicant had failed to demonstrate that he had the necessary knowledge and skills to uphold the Act.

The Liquor Licensing Inspector responded to a question from the Committee, noting that the expected pass rate for the test for a Manager's Certificate was 75%.

Mr Singh responded to a question from the Committee noting that he had received the Licensing Inspectors Brief of Evidence prior to the hearing and had understood the contents.

Cross Examinations

The Liquor Licensing Inspector responded to a question from the Applicant, who noted that when the Inspector had posed a question concerning what the minimum age was that a person could sell alcohol, he had responded that it was 18 years of age, because he had googled this, and he wanted to know why this answer was not accepted.

The Liquor Licensing Inspector responded that in the United Kingdom a person must be 18 years old before they could sell alcohol, but in New Zealand the situation was different.

The Applicant responded to questions from the Committee relating to whether he considered the test questions to be reasonable, stating that he needed another chance, because without the Manager's Certificate he would not have a job and he needed the job.

3. NZ Police Report

Sergeant Trevor Brown, NZ Police – Liquor Licensing Coordinator (Western Bay of Plenty) advised that there was no further evidence from the Police, other than the email dated 23 November 2017 as circulated, which stated the Police offered no objection.

The Chairperson thanked Mr Singh and the reporting agencies, and closed the evidential part of the hearing. He then outlined the object of the Act for the benefit of the Applicant, advising that the Committee must take this into account in making its decisions.

10.55am The Committee reserved its decision and adjourned the meeting.

11.00am The meeting was reconvened.

4. Deliberations / Decision

The Chairperson ascertained from the Committee that following the hearing of all evidence the Committee considered it was in a position to enter into deliberations.

Following deliberative discussion the Panel emphasised the importance of requiring and maintaining a high standard of Duty Managers due to their role in managing the sale of a harm-related product, and noting the key objective of the Act.

Resolved: Thwaites / Mackay

THAT in respect of Application No. LL7049 for a New Manager's Certificate under Section 219, Sale and Supply of Alcohol Act 2012 for

Applicant: Avinash Singh, who is employed at a premise located at 21 Plummer's Point Road, Whakamarama, trading as Sandhu Bar, following the hearing and consideration of all evidence both verbal and written, that the Manager's Certificate be declined. The full decision of the District Licensing Committee is as follows:

Decision number: 022/CERT/7049/2018

IN THE MATTER of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER of an application by Avinash SINGH
in respect of an application for a new Managers Certificate

Hearing Date: 1 March 2018

Committee: Mr Michael Jones (Commissioner/Chair)
Mr Don Thwaites (Member/Councillor)
Mr Peter MacKay (Member/Councillor)

Appearances: Mr Dougal Elvin (Licensing Inspector) – to assist
Sgt Trevor Brown (NZ Police) – to assist

DECISION BEFORE THE WESTERN BAY OF PLENTY DISTRICT LICENSING COMMITTEE

The application for a new Manager's Certificate by the applicant Mr Avinash SINGH is declined.

BACKGROUND TO DECISION

The Committee must consider an application by Avinash Singh (the Applicant) for a new Managers certificate.

Reporting agencies received copies of the application. No opposition was received from the Police. Opposition to the application was received from the Licensing Inspector.

Due to the opposition from the Licensing Inspector the matter came before the Licensing Committee to consider by way of hearing.

POSITION OF THE REPORTING AGENCIES

Inspectors Position

The Licensing Inspector, Dougal Elvin is in opposition to the application. His opposition is in relation to section 227.

The Licensing Inspectors concerns were the following:

- a) *The applicant has failed to display that he has the necessary knowledge and skills to uphold the Act.*

NZ Police Position

Sergeant Brown of the NZ Police raised no matters in opposition to the application

THE HEARING

The Applicant:

Mr Singh attended the hearing. He stated that he had read the evidence provided by the Inspector and understood the contents and had no evidence to present but would respond to questions.

In response to questions from the Committee in relation to whether he had studied or otherwise prepared for the Council Inspectors Manager's Certificate test, Mr Singh advised that he had originally attended a training course in Rotorua in January 2017, and before undertaking that course he had studied, but had not studied since that time.

Mr Singh was asked a number of questions by the Committee, Licensing Inspector and the Police in relation to his knowledge of the Act. It is the opinion of the Committee that Mr Singh has woefully insufficient knowledge of the Act. Further, that Mr Singh has failed to retain any knowledge of the Act from the training course attended in January 2017, and his ability to manage a licensed premises is a matter of concern.

Inspector:

Mr Elvin advised that the applicant had applied for a new managers certificate and was currently employed by the Sandhu Bar in Whamaramara, as the Assistant manager. His application detailed that he had been working at the premises since January 2017.

Mr Singh completed his LCQ in January 2017, and has been employed in the industry at the Sandhu Bar since this time. Mr Kaur the licensee has written a letter of support for Mr Singh in his application.

The application was opposed on the grounds that the applicant had failed to demonstrate that he had the necessary knowledge and skills to uphold the Act.

Mr Singh had failed to pass a test on the requirements of the Act on two occasions, being 5 December 2017 and 16 January 2018.

In relation to the test the Committee are satisfied that any manager who has undertaken training on the Act and has experience in the industry would be able to reasonably pass the test.

NZ Police:

Sergeant Brown advised that he had no evidence to provide, and his report was taken as read.

DISCUSSION

As indicated at the hearing there are a number of matters that the Committee must determine.

Section 227 of the Act provides four considerations the Committee must have regard to when deciding whether to grant an application to renew a Manager's Certificate. These are as follows:

- a) The applicant's suitability to be a manager;*
- b) Any convictions recorded against the applicant since the certificate was issued or last renewed;*
- c) The manner in which the manager has managed the sale and supply of alcohol pursuant to the licence with the aim of contributing to the reduction of alcohol related harm; and*
- d) Any matters dealt with in any report made under section 225.*

Considerations

In deciding whether to issue the licence, the District Licensing Committee must have regard to the criteria in section 227. This requires the Committee to consider the following questions:

- a) Is the applicant suitable to manage licensed premises?
The Committee heard evidence from the Inspector, and were able to determine based on their own questions to the applicant, that the applicant was unable to answer basic questions on the Act's requirements.*

- b) Does the applicant have any convictions?*

No matters were raised by the Police with regard to any previous or pending convictions.

- c) Does the applicant manage licensed premises in a manner that is consistent with the aim of contributing to a reduction in alcohol harm?*

The applicant's inability to answer the majority of the simple test questions on the Act, and simple questions from the Committee members and reporting officers, brings into question his ability to manage the sale and supply of alcohol in a manner that is consistent with the Act. This Committee is not satisfied that Mr Singh understands his responsibilities under the Act.

i) Have the Police or Inspector raised any concerns?

The Police raised no concerns in their report. However, it became apparent at the hearing, through questions put to the applicant, that the Police had similar concerns to the Committee about Mr Singh's limited understanding of the Act and his responsibilities.

The Inspector has made enquiries into the suitability of the applicant and his experience, and is not satisfied he is a suitable person to manage a licensed premises. This position is supported by the Committee.

Conclusion

The Committee has considered all the facts of this case and must decline the application.

Further, the Committee is of the opinion that any further application by Mr Singh for a Managers Certificate be subject to a minimum period of six months stand down before being accepted.

At the time of any future application for a new Managers Certificate, Mr Singh must be able to demonstrate that he has undertaken further training on the Sale and Supply of Alcohol Act 2012, and can demonstrate a sufficient knowledge of the Act.

The Committee is of a further opinion that Mr Singh is unsuitable for appointment as an Acting or Temporary manager, in respect to licensed premises, until he can demonstrate adequate knowledge in the Act to the satisfaction of this District Licensing Committee.

It is noted that at the conclusion of the hearing the applicant informed the Committee that his work visa with Immigration NZ is conditional on his employment with the Sandhu Bar. That is not a matter for this Committee under the Sale and Supply of Alcohol Act 2012, and will need to be addressed with his employer.

DATED this 16th day of March 2018

*Michael Jones
Chairperson/Commissioner*

DL7.6 **Hearing: Application No. LL6920 for a Renewal of Manager's Certificate under Section 224, Sale and Supply of Alcohol Act 2012 - Applicant: Jigneshkumar Patel in relation to a premise located at 211 Seaforth Road, Waihi Beach, trading as Waihi Beach Superette**

4. Deliberations / Decision

The Chairperson ascertained from the Committee that, following the hearing of all evidence, the Panel was in a position to enter into deliberations.

During deliberative discussion, the Panel emphasised the importance of requiring and maintaining a high standard of Duty Managers due to their role in managing the sale of a harm-related product, and noting the key objective of the Act.

Resolved: Chairperson Jones / Mackay

THAT in respect of Application No. LL6920 for a Renewal of Manager's Certificate under Section 224, Sale and Supply of Alcohol Act 2012 for Applicant: Jigneshkumar Patel, who is employed at a premise located at 211 Seaforth Road, Waihi Beach, trading as Waihi Beach Superette, following the hearing and consideration of all evidence both verbal and written, that the Manager's Certificate is declined. The full decision of the District Licensing Committee is as follows:

Decision number: 022/CERT/6920/2018

IN THE MATTER of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER of an application by Jigneshkumar Naginbhai PATEL in respect of an application for a renewal of managers certificate

Hearing Date: 1 March 2018

Committee: Mr Michael Jones (Commissioner/Chair)
Mr Don Thwaites (Member/Councillor)
Mr Peter MacKay (Member/Councillor)

Appearances: Mr Dougal Elvin (Licensing Inspector) - to assist
Sgt Trevor Brown (NZ Police) - to assist

DECISION BEFORE THE WESTERN BAY OF PLENTY DISTRICT LICENSING COMMITTEE

The application for renewal of the Managers Certificate by the applicant Mr Jigneshkumar PATEL is declined.

BACKGROUND TO DECISION

The Committee must consider an application by Jigneshkumar Patel (the Applicant) for renewal of a Managers certificate 022/CERT/085/2014, with expiry date of 4 September 2017. The renewal application was made to Council on 1 August 2017, keeping the existing certificate alive until the determination of this application.

All reporting agencies received copies of the application. No opposition was received from the Police. Opposition to the application was received from the Licensing Inspector.

Due to the opposition from the Licensing Inspector the matter came before the Licensing Committee to consider by way of hearing.

POSITION OF THE REPORTING AGENCIES

Inspectors Position

The Licensing Inspector, Dougal Elvin is in opposition to the application. His opposition is in relation to section 227.

The Licensing Inspectors concerns were the following:

- a) *The applicant has failed to display that he has the necessary knowledge and skills to uphold the Act.*

NZ Police Position

Sergeant Brown of the NZ Police raised no matters in opposition to the application

THE HEARING

The Applicant:

Mr Patel failed to attend the hearing and no explanation for his absence was provided.

Inspector:

Mr Elvin advised that the applicant had held a Duty Manager's Certificate since 4 September 2013, and had been working at the Waihi Beach Superette. This application was for the second renewal of his Manager's Certificate.

The application was opposed on the grounds that the applicant had failed to demonstrate that he had the necessary knowledge and skills to uphold the Act.

Mr Patel completed his LCQ in 2013, and completed a bridging test in 2014.

Mr Patel had failed to pass a test on the requirements of the Act on two occasions, being 28 November 2017 and 19 December 2017.

In relation to the test, the Committee asked questions of Mr Elvin about the test consistency with other Districts, and the percentage of pass and fails by applicants to the test, and are satisfied that the requirement is not onerous. The Committee consider that any manager who has undertaken training in the Act and has experience in the industry would be able to reasonably pass the test.

NZ Police

Sergeant Brown advised that he had no evidence to provide, and his report was taken as read.

DISCUSSION

As indicated at the hearing, there are a number of matters that the Committee must determine.

Section 227 of the Act provides four considerations the Committee must have regard to when deciding whether to grant an application to renew a Manager's Certificate. These are as follows:

- a) The applicant's suitability to be a manager;*
- b) Any convictions recorded against the applicant since the certificate was issued or last renewed;*
- c) The manner in which the manager has managed the sale and supply of alcohol pursuant to the licence with the aim of contributing to the reduction of alcohol related harm; and*
- d) Any matters dealt with in any report made under section 225.*

Considerations

In deciding whether to issue the licence, the District Licensing Committee must have regard to the criteria in section 227. This requires the Committee to consider the following questions:

- a) Is the applicant suitable to manage licensed premises?*

The Committee heard evidence from the Inspector that the applicant was unable to answer basic questions on the Act's requirements.

- b) Does the applicant have any convictions?*

No matters were raised by the Police with regard to any previous or pending convictions

- c) Does the applicant manage licensed premises in a manner that is consistent with the aim of contributing to a reduction in alcohol harm?*

The Applicant's inability to answer the majority of the simple test questions on the Act brings into question his ability to manage the sale and supply of alcohol in a manner that is consistent with the Act. It is noted that the Committee were not able to make enquiries of Mr Patel at the hearing on this matter.

- i) Have the Police or Inspector raised any concerns?*

The Police have raised no concerns.

The Inspector has made enquiries into the suitability of the applicant and his experience and is not satisfied he is a suitable person to manage a licensed premise. This position is supported by the Committee.

It is noted that the Applicant has had two renewals since the granting of the licence and these were not opposed. No information is available to the Committee with regard to the previous Inspector's considerations, and equally, the Committee is unable to query the Applicant as to any matters or changes in circumstance that should be considered in relation to his knowledge and experience.

Conclusion

The Committee has considered all the factors of this case and must decline the application.

Further, the Committee is of the opinion that any further application by Mr Patel for a Managers Certificate be subject to a minimum period of six months stand down before being accepted.

At the time of any future application for a new Managers Certificate Mr Patel must be able to demonstrate that he has undertaken further training on the Sale and Supply of Alcohol Act 2012, and can demonstrate a sufficient knowledge of the Act.

The Committee is of a further opinion that Mr Patel is unsuitable for appointment as an Acting or Temporary manager, in respect to licensed premises, until he can demonstrate adequate knowledge in the Act to the satisfaction of this District Licensing Committee.

DATED this 16th day of March 2018

Michael Jones
Chairperson/Commissioner

DL7.7 Correspondence to the NZ Qualifications Authority Regarding LCQ Training Courses

In light of the Committee's findings that day in relation to LCQ training courses, including the matter of identification of persons sitting courses online, it was agreed that a letter be sent to the NZ Qualifications Authority, and the following motion was put:

Resolved: Chairperson Jones / Mackay

- 1. THAT the District Licensing Committee write to the New Zealand Qualifications Authority to express its concerns in relation to the quality of LCQ Training Courses.*
- 2. THAT the District Licensing Committee recommends to the New Zealand Qualifications Authority that it investigate whether there is sufficient identification of persons who are undergoing online courses for LCQ training.*

The meeting concluded at 11.30am.

Confirmed as a true and correct record

M Jones
Chairperson

Date

DL7