

CHRISTCHURCH DISTRICT LICENSING COMMITTEE
PROTOCOL AND PROCEDURE FOR HEARINGS

NB: This document is sent to all parties when notices of DLC hearing dates are sent.

PRIOR TO HEARING COMMENCING– HEARINGS ADVISER

Attendance - The Hearings Adviser ensures everyone is seated prior to the hearing, distributes and collects the pink appearance slips, reminds everyone to turn off their cell phones and gives a health and safety briefing (exits, toilets etc).

Announces that all mobile phones are to be turned off and that s/he is going to get the Committee and returns with them, calling "ALL RISE", turns on the recording equipment then announces: The District Licensing Committee is now sitting in the matter of an application from

THE HEARING – CHAIR

A. CHAIR INTRODUCES DLC MEMBERS

B. Explain Nature of Hearing (Sections 188; 201-204, 207-208; Key provisions 188 and 203(9))

- (i.) Not adversarial, inquisitorial. This means that the Committee's task is to listen and inquire into whether or not this application before it should be granted.
- (ii.) Whether or not it should be granted, and if so, on what terms and conditions, is based on what is in the Sale and Supply of Alcohol Act and its Regulations.
- (iii.) The Committee is allowed to receive any evidence that will assist it to reach its decision. This means it might be evidence which would not be acceptable in a Court of Law, eg hearsay evidence. All evidence must be relevant or it will not help us in our task. If evidence is not direct, such as hearsay evidence, it is hard to test it, so we may give it less weight than direct evidence of what someone has seen or heard, or done, or written themselves [section 207].
- (iv.) This is not a trial, nothing has to be proved beyond reasonable doubt as in criminal cases. We decide on the balance of probabilities – what do we think is more likely to be true and reliable than not, what lawyers call the civil standard of proof.
- (v.) These proceedings are formal. They are being taped so there can be a transcript for any appeal. We expect the normal courtesies of one person speaking at a time, no cell phones, no one talking to someone else to disrupt proceedings.
- (vi.) We usually have a tea break at about 11am then lunch break of (40 minutes) at about 1pm followed by afternoon tea at 3pm. We usually finish for the day at 5pm, but will review things as the hearing proceeds. These will be announced as they occur and you will be advised when the hearing will resume.
- (vii.) On occasion the Committee may call a recess or short adjournment during the hearing in order to allow the Committee or parties to consider matters that have arisen during the proceedings.

C. In accordance with Secretariat's Notice of Hearing we record that we have received the following disclosures:

List here:

- a.
- b.
- c.

B. APPEARANCES

- a. Introduction of agencies and other parties
 - i. Each party is asked to confirm what witnesses are being called

- b. CHAIR confirms order:

This is the order we will follow for evidence, submissions etc (summarise Part E - but noting that the Committee may depart from this order where in its view the applicant would be assisted by hearing the evidence of the opposing parties first.

The Committee will also make a determination as to which Agency is the "Lead Agency" and hear that Agency prior to the other Agency representatives.

The Committee confirm if will hear all Opening Submissions/Statements from all parties first

D. PRELIMINARY MATTERS

Here the Chair will ask whether there are any unresolved preliminary matters (Section 203) eg exclusion of witnesses, non-publication of evidence.

Confirming status of any s204 and 205 parties.

Timetabling - Where there are multiple public objectors the Chair will indicate a mutually convenient time at which their evidence will be heard.

E. HEARING – EVIDENCE/SUBMISSIONS

1. Applicant

Opening statement (if any)

First witness – read brief of evidence or summarise?

Cross-examination*

re-examination

DLC members questions

Anything arising? – to all parties.

*order of cross examination Inspector (or Lead Agency), Police, MOH, Objectors.

Subsequent witnesses follow similar procedure.

2. Inspector

Opening statement (if any)

First witness – read brief of evidence, summarise or taken as read?

Cross-examination*

re-examination

DLC members questions

Anything arising? – to all parties.

*order of cross examination Applicant, Inspector (or Lead Agency), Police, MOH, Objectors.

Subsequent witnesses follow similar procedure.

3. Police

As above

4. Medical Officer of Health

As above

5. Other Parties (by leave of Chair) (s204 or 205 parties)

As above. (Note that other parties do not have the right to cross examine witnesses.)

6. Objectors

As above for each objector

7. Rebuttal

Very rarely (due to pre-circulation of evidence prior to the hearing) an applicant may seek to introduce rebuttal evidence if taken by surprise by some evidence arising during the hearing. The rules of natural justice require the applicant is given this opportunity where appropriate. This may require an adjournment with a new date to be set.

8. Closing Statements (Note that parties may request to make written submissions)

- o Applicant
- o Inspector (Lead Agency)
- o Police
- o MOH
- o s205 parties?
- o Objectors
- o Right of Reply to Applicant
- o Written Submissions – Normally the Committee expects and prefers that the parties will be prepared to make oral submissions at this point in the hearing. To assist the parties the Committee may agree to take a short adjournment to enable notes to be prepared. Where more complex issues of fact and/or law are involved, written submissions may be more appropriate and the Committee will direct that the Agencies and Objectors provide written submissions within a time frame (normally 3-5 working days) with the Applicant having a further [3-5] working days to make its own submissions in response.

F. CONCLUSION

At the end of the hearing the Chair informs everyone that the hearing of evidence is concluded, that the Committee reserves its decision and will deliver it in writing to the parties after it has considered the evidence it has heard, submissions (written or otherwise), and the requirements of the Sale and Supply of Alcohol Act and its Regulations.

Where the Committee has agreed that written submissions are appropriate it will direct that the Agencies and Objectors provide written submissions within a time frame (normally 3-5 working days) then that the Applicant has a further [3-5] working days to make its own submissions in response.