

**Absolutely Positively
Wellington City Council**

Me Heke Ki Pōneke

Wellington District Licensing Committee

Practice Note – Hearing Protocols and Procedures

26 June 2024



Version	Date	Author	Approver
1	08/04/2024	T Matsis, Legal	
2	26/04/2024	DLC Chairs	

Status of this Practice Note

1. This is a guide to procedures and protocols of the Wellington District Licensing Committee with effect from 1 July 2024. This Practice Note replaces all earlier practice notes.
2. This Practice Note does not have the status of rules but will usually be followed unless there is good reason to do otherwise in the particular circumstances of any application.
3. The Committee has broad discretionary powers in relation to procedure and evidence. The Chair in any hearing may exercise those powers instead of or in addition to anything in this Practice Note where that is necessary or desirable in the particular circumstances of any application.
4. References to the Act are to the Sale and Supply of Alcohol Act 2012 unless stated otherwise.

Pre-hearing matters

Pre-hearing conferences

5. The Committee may, at its discretion, hold a pre-hearing conference prior to a public hearing of an application. A pre-hearing conference will usually be held online rather than in-person. Every party to an application, or their representative, must attend a pre-hearing conference for that application unless the Committee grants leave to be excused.
6. A pre-hearing conference may be held if there is a large number of objectors or if the Committee considers there are any logistical or preliminary legal issues that need addressing to ensure the substantive hearing is able to run smoothly.
7. Matters that may be discussed at a pre-hearing conference may include:
 - dates by which written submissions and/or evidence are to be submitted;
 - whether objectors wish to be heard at the hearing;
 - the mode of hearing (remote vs in person, or a combination of the two);
 - parties' preferences regarding date/time of hearing and order of appearance;
 - the venue of the hearing;
 - whether any party has access/mobility requirements that need accommodating if the hearing is to be in-person;
 - whether any party has a need for Te Reo interpreter at the hearing; and
 - whether any additional arrangements need to be made to recognise tikanga at the hearing.

Recognition of tikanga

8. The Committee will endeavour to recognise tikanga in every hearing. Parties are asked to assist the Committee to identify relevant tikanga, including appropriate provision for using te reo Māori for mihi and giving evidence, making available interpreters and translation services, and conducting karakia at the commencement and conclusion of a hearing or any part of a hearing. The Committee will try to accommodate all reasonable requests.

Submissions

9. The Committee does not require that parties file written submissions in advance. Submissions may be provided orally at the hearing. Alternatively, the Committee may determine that written submissions should be filed. A timetabling order will be set down. The Committee notes, however, that it is good practice to file written opening submissions in advance, even though it is not mandatory.

Statements of evidence

10. The Committee may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectually with any matter before it, whether or not that information would be admissible in court (s207(1) of the Act). Subject to this, the provisions of the Evidence Act 2006 apply to proceedings before the Committee (s207(2) of the Act).
11. Every written statement of evidence should include:
 - a form of heading which identifies the application in respect of which the evidence is being given;
 - the full name and occupation of the witness;
 - for any witness who is being called to give expert evidence, the matters of qualification and confirmation of adherence to the High Court code of conduct for expert witnesses;
 - a summary of the principal issues that the witness addresses in the statement; and
 - evidence set out in numbered paragraphs on numbered pages.
12. As a written statement of evidence will normally be presented by the witness at a hearing before the Committee, the statement does not need to be signed.
13. As far as possible, every written statement of evidence should:
 - be set out and formatted in a way that is easy to read and refer to;
 - be in the witness' own words and not in the words of a lawyer or other person involved in drafting the statement;
 - not contain evidence that is irrelevant in the proceeding;
 - not contain any material in the nature of a submission;
 - be succinct and avoid repetition; and
 - be confined to and focused on the matters in issue.
14. Directions will normally be given for the filing and exchange of written evidence prior to the hearing. Evidence is to be filed by sending it to the Secretary of the Committee at secretarydlc@wcc.govt.nz, and simultaneously distributed via email to all parties according to the dates specified in the exchange timetable.
15. Where no specific direction has been given for the filing and exchange of evidence, statements of evidence are to be filed as follows:
 - by the applicant and its witnesses - by 3pm on the day that is 25 working days before the hearing; and
 - by the Police, Medical Officer of Health, and/or Licensing Inspector, who will appear at the public hearing, either in opposition or in the exercise of their right to appear in proceedings (s204) - by 3pm on the day that is seven working days before the hearing; and
 - by any objector and any witnesses in support of the objection - by 3pm on the day that is seven working days before the hearing; and
 - if the applicant wishes to provide any written evidence in response to what has been provided by the other parties, the applicant must do so by 3pm on the day that is two working days before the hearing.
 - If any of the parties wishes to ask questions of any of the parties or their witnesses, they should submit a list of those questions to the Secretary by 3pm on the day that is five working

days after the last brief of evidence has been provided. The Committee reserves its right to ask only questions that it considers to be relevant to the application before it.

16. If a party intends to rely only on written materials already provided as part of its application, opposition, or objection, and does not intend to file any further evidence, they should notify the Secretary of this by the relevant deadline set out above.
17. The Committee must conduct the hearing observing the principles of natural justice, which require that all parties to the hearing have a reasonable opportunity to prepare for it. Written evidence should be filed in advance of the hearing; failure to do so may result in the Committee declining to consider any late written evidence. The Committee notes, however, that oral evidence may be presented during a public hearing to supplement written materials that have already been circulated.
18. If any party wishes to present evidence which it considers sensitive or confidential, either for reasons for commercial sensitivity or tikanga, they should raise this with the Committee in advance. The Committee will consider making an order to protect that information if necessary. Among the steps the Committee can take is that it may make an order that the sensitive or confidential information does not need to be supplied as part of the evidence exchange, or may order that certain aspects of the document be edited before being supplied to third parties. The Committee may also order parties or media not to copy the information, not to remove it from the hearing, not to publish the information, or not to use that information for any other purpose than the hearing. If necessary, the DLC can make provisions to exclude the public or media for the hearing of any sensitive evidence.

Hearings

Date, time and venue of the hearing

19. The applicant and anyone who wishes to be heard will be given at least 10 working days' notice of the date, time, and venue of the hearing.
20. The Committee wishes to encourage participation and will make all reasonable efforts to find a time and date for the hearing that is convenient to most parties.
21. A hearing may be held in person or online. The decision about the mode of the hearing will be made by the Chairperson of the Committee.

In person hearings

22. In person hearings will usually be held at Wellington City Council's offices (113 The Terrace) but may be held at a different venue if a suitable room is not available or if large numbers of people are expected to attend.
23. The venue will be as accessible as possible but parties with any additional access needs should let the hearing coordinator know in advance so that any arrangements can be made.
24. The layout of tables and chairs at the venue will be set up so that everyone can hear and see the Committee and anyone who is speaking.
25. Members of the public may attend a hearing but are not entitled to participate. The media may attend to report on the proceedings, except when the public is excluded.

Online hearings

26. A hearing may be conducted online if the Chairperson of the Committee considers it appropriate and the necessary facilities are available. The Chairperson will take into account matters such as fairness, the ability of parties to adequately put their case or respond to other parties, access to technology, and willingness of parties. Online hearings can have significant time and cost savings for all involved (for example, by removing the cost and time needed to travel to a hearing venue).
27. An online hearing will be conducted in a similar way to an in-person hearing except that parties will attend remotely via a platform such as Microsoft Teams or Zoom.

Order of proceedings

28. Unless otherwise advised by the Chairperson, the hearing will usually follow this format:
 - Opening and introduction
 - Presentation by the applicant
 - Presentation by reporting agencies
 - Presentation by objectors (at an Objectors' hearing, the objectors may be asked to make their presentation first, followed by the applicant)
 - Applicant's closing statement
 - Reporting agencies and objectors' closing statement
 - Close of hearing
29. The format may be altered at the discretion of the Chairperson of the Committee.
30. If any party who said they wanted to be heard at the hearing fails to appear at the hearing, the Committee may nevertheless proceed with the hearing if the Chairperson considers it fair and reasonable to do so.
31. The Committee will usually read the statements of evidence prior to the hearing in which they will be presented. If a party wishes to provide supplementary information that has not been submitted in advance, they must provide the Secretary with ten printed copies at the hearing. All other documents may be viewed electronically.
32. The presentation of evidence by each witness in a hearing will usually proceed by the witness:
 - making an oath or affirmation to tell the truth, administered by the hearing coordinator;
 - confirming their name, occupation and authorship of the statement or statements of evidence they are giving;
 - stating any correction to be made to their statement of evidence or presenting a supplementary statement setting out any correction;
 - confirming that, subject to any correction that they may have made, their statement of evidence is true to the best of their knowledge and belief; and
 - answering any questions from the Committee.
33. The parties should be aware that, if an unexpected matter is raised during the hearing, either by way of oral evidence or submissions, the hearing may, in any case, need to be adjourned to allow the other parties to consider and respond to that matter.

Counsel and representatives

34. An applicant or an objector may present their case personally or by way of counsel, i.e. a lawyer.

Questioning parties and/or witnesses

35. In accordance with the inquisitorial, rather than adversarial nature, of the hearing, the Committee will not allow cross-examination of any witness by any party or its representative (s203A(2)(c) of the Act). (If an application was filed before the new procedures came into force, you will be advised. In that case, the old protocols may apply and cross-examination may be permitted.)
36. If any party wants to seek clarification or further information from a witness, they may ask the Chairperson to put a question to the witness. The Chairperson will exercise their discretion as to whether that question is relevant, helpful, and necessary.

Site visits

37. Site visits are a valuable tool the Committee may use to become more familiar with the application. A site visit is not intended as a substitute for evidence at the hearing. The Committee may make a site visit before, during or after the hearing and prior to delivering its decision. Generally, the Committee will try to conduct a site visit at a time convenient to all parties.
38. The Committee will advise parties its intention to conduct a site visit and will indicate when and where the visit is expected to occur.
39. All parties to the hearing will be given the opportunity to be present at the site visit. However, the Committee will not receive communications or representations from any party during the site visit.
40. While the purpose of a site visit is to familiarise the Committee with the application, if any material matter arises during the visit the Committee will raise that matter with the parties.

**Absolutely Positively
Wellington City Council**

Me Heke Ki Pōneke

Alcohol Licensing

Phone: 04 801 3760

AlcoholApplications@wcc.govt.nz

secretaryDLC@wcc.govt.nz

wellingtongovt.nz/certificates-and-licences/alcohol-licences