



Liquor Policy 2004

1.0 Introduction

The key to this Policy is the promotion of responsible attitudes in achieving a mature approach to liquor consumption.

While there is no statutory requirement to have a 'Liquor' or 'Sale of Liquor' Policy, having a specific policy allows for the particular requirements and objectives of the district's community to be expressed and assists both the District Licensing Agency and the Liquor Licensing Authority in its decision-making.

A 'Sale of Liquor' Policy specifically addresses issues in administering the Sale of Liquor Act 1989. However, many Territorial Authorities are now adopting broader Liquor policies which recognise that 'Liquor' and the issues surrounding its use and control are often additional to those regulated by the Sale of Liquor Act 1989.

Accordingly, part of this Policy will specifically address 'Sale of Liquor' issues whilst other parts will deal with 'Liquor' issues through a set of guiding principles. It is intended that these principles will guide the approach taken by Council and its partners in relation to community alcohol related matters.

The Policy parts which address 'Sale of Liquor' issues provide clarification and guidance for the Wanganui District Council's Liquor Licensing Agency, Licensing Inspector and industry alike. These parts of the Policy attempt to clarify matters within the Act, which may be ambiguous with the aim of eliminating inconsistent decisions and unnecessary bureaucracy.

The Liquor Licensing Authority in Wellington has also welcomed development of local policy for assistance during hearing deliberations. The 'Authority' made the following reference in one of its decisions: -

"We have frequently expressed a wish to hear from Local Authorities - particularly in relation to trading hours. In our first Annual Report to Parliament we indicated that we wished to know that recommendations from Licensing Inspectors reflected the views of the Local Authorities..... We had anticipated the adoption of policy guidelines by Local Authorities to assist Licensing Inspectors in reporting on individual applications..... We saw that as a means by which the community or communities might have an input and whilst we would not be bound by any such guidelines, we saw them as being of value to us in the exercise of our discretion."

It is recognised that 'Liquor' control is a multi-agency function and that the principles contained within this Policy will be of relevance to the varying agencies involved.

2.0 Objective

To establish responsible 'drinking' practices within Wanganui, which then contributes to social well-being.

3.0 Policy Principles

3.1 Safer Community

It is considered important that licensed premises and public places that surround licensed premises are **safe** places for people to frequent.

Well-managed licensed premises can help ensure that Wanganui and its public places are a safe place to be at any hour. This contributes to the communities sense of overall well-being and assists Wanganui to attract visitors.

Principle: The need to create a safer community through responsible management of licensed premises and social functions.

3.2 Purpose of the Sale of Liquor Act 1989 is met

The object of the Sale of Liquor Act 1989 is to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse. It is important that the Council promotes this 'purpose' within its role as District Licensing Agency.

Principle: All the Council's actions within the scope of the Sale of Liquor Act 1989 shall be consistent with the object of the Act.

3.3 Assist Licensed Premises to Become Well-Managed

Experience tells us that vibrant licensed premises are usually well run establishments where liquor abuse is less likely to occur. Such premises are necessary attractions to visitors and locals who enjoy such forms of entertainment.

Principle: Licensees' and Managers' should be assisted and encouraged to run well-managed, vibrant premises.

3.4 Statutory and Non-Statutory Tools

Clearly, some liquor practices come within the confines of statutory control, policy or otherwise. It is important in addressing wider liquor related issues to use a range of statutory and non-statutory tools to influence behaviour. The promotion of responsible drinking practices will involve multi-agency approaches and programmes.

Principle: That alcohol issues facing the community be addressed using a multi-agency approach involving the full use of both statutory and non-statutory tools.

3.5 Full Community Involvement

This Policy recognises that access to and use of liquor is a wider community concern.

Both the community generally, and industry sector specifically, need to know how they can contribute to and influence decision-making in relation to such matters.

This is partly through consultation on the Policy itself but mainly through the public notification or objection processes to either applications or issues that arise.

Principle: The Council has a lead role in facilitating involvement of the wider-community in an effort to address ‘alcohol’ issues.

3.6 Transparency

All liquor issues, which have an element of discretion, are considered and clearly outlined as policy within this document. This will assist in developing a level of certainty in decision-making.

It will also allow the public, applicants and the District Licensing Agency to clearly identify how issues are to be considered and decisions made.

Principle: All decisions relating to liquor issues will be made in line with the Sale of Liquor Act 1989 and with this Policy where applicable.

3.7 Fairness

It is important that those in the liquor industry and their customers are seen to be treated fairly. This will often mean balancing the needs of the respective stakeholders within the confines of any legislative or Policy rule.

Principle: The Council will promote a balance between the expectations of the wider-community and the liquor industry where statutorily possible.

4.0 Application of Principles for Sale of Liquor Act 1989 Issues

The District Licensing Agency (Council) has a statutory role to perform in relation to the administration of the Sale of Liquor Act 1989.

In order to fulfil Principle 2: ‘Purpose of the Sale of Liquor Act 1989 is met’ and Principle 6: ‘Transparency’, of this Policy, a number of issues or matters of discretion under the Act need clarification by way of Policy. They are:

- 4.1 Drinking in Public Places
- 4.2 Hours of Operation for Licensed Premises
- 4.3 Host Responsibility
- 4.4 Management of Licensed Premises/Manager’s Certificates
- 4.5 Special Licences
- 4.6 Pre-Hearing Meetings
- 4.7 Temporary Authorities

4.1 Drinking in Public Places

Generally speaking it is undesirable to have persons drinking in public places, especially when: -

- There is no form of control
- When the drinking is excessive
- Is after hours, or
- Is in a location the general populace are likely to also frequent

Irresponsible drinking in public places is known to contribute to disorderly and anti-social behaviour that creates an unpleasant place to be and reflects poorly on Wanganui.

Consistent with Principles 3.1 'Safer Community' and 3.3 'Assist Licensed Premises to become Well-Managed', Wanganui District Council has adopted a Liquor Ban Bylaw preventing drinking in public places within the greater Central Business District area. Additionally, the Licensing Agency expects that licensed premises will support the 'Liquor Ban' by actively preventing patrons from taking opened liquor containers outside the licensed premises, as is required under the law.

The Liquor Ban is a tool that is actively used by Police to control disorderly behaviour involving alcohol in the Central Business District.

Policy: The 'Liquor Ban' Bylaw is supported by the community and actively administered by the Police.

4.2 Hours of Operation for Licensed Premises

The hours of operation for substantive On, Off and Club licences are set by the Licensing Authority after consideration of the reports from the Licensing Inspector, Police and Medical Officer of Health as well as any objections. The District Licensing Agency also sets hours, by default, if the hours sought by the applicant are not opposed by reporting persons or objected to by members of the public.

Often an applicant seeks hours of operation with little justification or because they consider that 'this is the norm'.

The level of adverse effects from licensed premises, especially in the Central Business District, are likely to be minimised when there are standard hours of operation. The standard hours of operation for Wanganui licensed premises should be 2:00am. This Agency supports licensed premises applying for and being granted extensions to this limit, but only in **exceptional circumstances** where it can be shown that:

- that a proven exemplary management regime is operating, and
- that any impacts on community amenity and city safety are prevented from occurring or are satisfactorily managed.

As every situation is different (on the basis of such issues as location, management regime, marketing and clientele) precedent on the hours of operation is unlikely to be of relevance in this matter. That one operator has extended hours will have no bearing on whether another operator gains similar conditions. Extensions to the stated hours of operation will only be

considered on renewal or as variations so that the District Licensing Agency can be sure that responsible management is occurring.

Policy: THAT in general the hours of operation for substantive Licences be limited to 2:00am.

AND THAT extensions be considered where it can be shown: -

- that a proven exemplary management regime is operating, and
- that any impacts on community amenity and city safety are prevented from occurring or are satisfactorily managed.

4.3 Host Responsibility

Host Responsibility is a key element in creating drinking environments that are welcoming and comfortable and where alcohol is served responsibly.

It aims to reduce the incidence of intoxication and the risk of intoxicated individuals causing harm to themselves, to other people or property.

Host Responsibility utilises a number of strategies aimed at creating safe drinking environments.

A Host Responsibility Plan as a requisite component of a liquor licence application, is desirable, and is a useful tool for Licensing Inspectors and for the Medical Officer of Health, when assessing an applicants suitability etc. Licensees' are encouraged to develop an individual Host Responsibility Plan rather than adopting a standard format, as this has been found to be more helpful in ensuring a strong sense of ownership of the plan. Wanganui District Licensing Agency has developed guidelines to assist licensees develop Host Responsibility Plans.

Policy: THAT all applicants for an On or Club Licence are required to have a written Host Responsibility Plan for the premises and are able to demonstrate that this is being actively promoted.

4.4 Management of Licensed Premises/Managers Certificates

Applications for Manager's Certificates are processed by the District Licensing Agency and reports are obtained from the Police and Licensing Inspector before being forwarded to the relevant Authority for consideration.

Premises requiring an authorised Manager to be on duty must display that person's name in a prominent place, when open for business. This requirement greatly assists the Police and Licensing Inspector during surveillance and inspections.

Policy: THAT Club licensed premises display the Duty Manager's name, in a prominent position within the premises.

It is recognised that a key element to having a well-run licensed premise, compliant with the Sale of Liquor Act 1989, is to have an experienced, well-informed Manager on duty.

When processing an application for a Manager's Certificate, the Licensing Inspector enquires into and assesses the applicant's experience, suitability and knowledge of the Sale of Liquor Act 1989. This is a critical opportunity to assess suitability of persons managing licensed premises and ensuring they obtain a reasonable knowledge of their responsibilities under the Act.

Formal Manager training is considered integral to good practice.

Policy: THAT all applicants for Manager's Certificates are interviewed by the Licensing Inspector to assess suitability, knowledge and experience in relation to managing licensed premises.

AND THAT all applicants for Manager's Certificates be encouraged to undertake relevant and recognised training courses.

4.5 Special Licences

A special licence authorises the holder of the licence to sell and supply liquor, on the premises or conveyance described in the licence, to any person attending any occasion or event or series of occasions or events described in the licence. Some matters surrounding the issue and use of special licences are either silent in the Sale of Liquor Act 1989 or open to interpretation. These are in the areas of: -

- (a) When a special licence is required,
- (b) When a certified Manager is required; and
- (c) Is a special licence required for liquor consumption on a conveyance.

With hindsight of Case Law, in the interests of good practice the following applies: -

- (a) When is a special licence required?

Policy: A special licence is not required when it is a private social gathering, closed to the public where alcohol is supplied free. (The *attached* guideline provides further assistance)

- (b) When is a 'General' Manager's certificate required for a special licence?

Policy: In general a certified 'General' Manager is required for a special licence if the number of people attending and the types of bar sales warrant the control. This is unless the Agency grants an exemption under Section 84(2) of the Sale of Liquor Act 1989. (The guidelines *attached* will assist this determination).

- (c) Is a special licence required for liquor consumption on a conveyance?

Policy: A special licence **is** required for occasions where liquor is being consumed on conveyances.

4.6 Pre-Hearing Meetings

The Sale of Liquor Act 1989 allows for objections, subject to meeting relevant criteria. Where this opposition exists the Act stipulates that the application must be decided by way of a formal hearing – either before the Liquor Licensing Authority or the District Licensing Agency. In either case there is often some time delay before the application can be heard. Applications to be heard by the Authority may be delayed for up to 12 months.

On occasion, the objection/s are based on a simple misunderstanding or lack of information easily resolved by way of a pre-hearing meeting (similar to the Resource Consent process). This often expedites matters and saves costs for all parties.

If the parties can be brought together and the perceived problems aired openly with an honest desire to seek resolution, the need to go on to a formal hearing may be avoided.

The informality of pre-hearing meetings often allows parties to be more creative in finding mutually acceptable solutions. This is especially important where the applicant and interested parties need to maintain an ongoing relationship. Even when a formal hearing is subsequently required, pre-hearing meetings can help clarify the issues enabling the hearing to be focused and less adversarial.

As with any pre-hearing meeting it is vitally important that protocols are adopted which allow natural justice to occur and positive outcomes to be reached.

Policy: THAT pre-hearing meetings are encouraged in response to opposed licence applications.

AND THAT pre-hearing meetings should be held as soon as is reasonably possible after the District Licensing Agency has received advice of the opposition.

AND FURTHER THAT Pre-Hearing Meetings be facilitated by an independent person.

AND FURTHER THAT ‘Sale of Liquor pre-hearing’ meetings follow the guidelines (Please see *attached*).

4.7 Temporary Authorities

Temporary Authorities are granted to allow a person to use a licence that is attached to a premise. These are generally needed when an establishment changes hands. They are issued for three months and can only be issued if there is a current licence for the premises.

One of the issues for District Licensing Agencies concerning Temporary Authorities is their potential misuse. Many District Licensing Agencies experience situations where applicants are not securing substantive On or Off licences and are instead relying on consecutive Temporary Authorities to continue trading. The question is when is enough, enough?

It is this Agency’s belief that two consecutive Temporary Authorities giving 6 months trading, is ample time to have secured a substantive licence or at least completed application and awaiting an Authority hearing.

The experience of the District Licensing Agency is that without such an incentive being in place applications are not made in time.

Policy: That a maximum of two consecutive Temporary Authorities will be granted to applicants unless they are awaiting 'hearing' of their substantive licence application.

Addendums

1. Host Responsibility Guidelines

The concept of Host Responsibility focuses on the places in our community where we serve alcohol. It aims to create drinking environments that are welcoming and comfortable and where alcohol is served responsibly.

Host Responsibility aims to reduce the incidence of intoxication and the risk of intoxicated individuals causing harm to themselves, to other people or to property.

Host Responsibility utilises a number of strategies aimed at creating safe drinking environments.

Wanganui District Licensing Agency requires all of its licensed premises to have a Host Responsibility Plan. The licensees are encouraged to develop an individual plan rather than adopting a standard format, as this has been found to be more helpful in gaining greater ownership of the plan.

1.1 Host Responsibility Plan Guidelines

You will need to address seven points in your development of the plan:

1.1.1 Minors

- How will you ensure that all of your staff are aware of the designation of your premise? This will determine 'who' is allowed on, and to drink at, your premises.

TIP: In your plan include the designation and what this means in terms of who is allowed on the premise.

- How will you ensure that all your staff are trained on their responsibilities under the Sale of Liquor Act 1989 in relation to minors?
- What instructions will you give staff to ensure that they know how to identify and proactively manage minors?
- What strategies will you have in place to manage minors? Are all staff fully aware of appropriate forms of identification to request from potentially underage minors entering your premises? Who will ask them to leave?

TIP: In your plan outline how you will ensure all staff are trained and will receive clear instructions on their responsibilities under the Sale of Liquor Act 1989 in regards to minors. Also outline your strategies for managing minors.

- Do you have appropriate signage displayed at every point of service regarding not serving minors?

TIP: Include your commitment to always displaying such signage in your plan.

1.1.2 Intoxication

*Staff must be trained in their responsibilities under the Sale of Liquor Act 1989 to **prevent** intoxication on licensed premises. Staff require clear instructions regarding identifying and proactively managing potentially intoxicated persons. Staff's ability to identify signs at the **onset** as opposed to the **escalation** of intoxication is integral to meeting the requirements of section 166 and section 167 of the Sale of Liquor Act 1989, prohibiting intoxication on licensed premises.*

- How will you ensure that all your staff are trained on their responsibilities under the Sale of Liquor Act 1989 in relation to intoxicated patrons?
- What instructions will you give to staff to ensure that they know how to identify and proactively manage potentially intoxicated persons?
- What strategies will you have in place to manage potentially intoxicated persons, ie; Will you offer free soft drinks, tea or coffee to potentially intoxicated patrons? How will you slow them down? Which staff have the authority to ask patrons to leave? What is the line of authority?

TIP: In your plan, outline how you will ensure that all staff are trained and receive clear instructions on their responsibilities under the Sale of Liquor Act 1989 with regard to potentially intoxicated patrons. Also outline your strategies for managing potentially intoxicated patrons.

- Do you have appropriate signage displayed at every point of service regarding not serving intoxicated patrons?

TIP: Include your commitment to always displaying such signage in your plan.

1.1.3 Food

A condition of your licence is that food must be available and promoted by means of clear and well-positioned signs at all times when the premise is authorised to be open for the sale of liquor. The range and style of food must be similar in style and nature to that shown on the menu accompanying the licence application, or a range of snack foods in the nature of pies, sandwiches, filled rolls, pizzas and the like.

- Is your signage promoting this food clear and well positioned?
- How will you ensure that staff are aware of the food options (menu) available at all times?

TIP: In your plan include your systems for ensuring that all staff are aware of the food options at all times.

1.1.4 Non-alcoholic beverages

A condition of your licence requires that a reasonable range of non-alcoholic refreshments are available at all times when the premises are open for the sale of liquor.

- Do you offer a range of non-alcoholic refreshments to patrons at all times?
- Do you have a commitment to offer free water to patrons at all times?
- How are these non-alcoholic alternatives promoted? Are they promoted by signage, featured in the beverage menu, or both?

1.1.5 Low-alcohol beverages

As of 1 April 2000, a condition of your licence requires that low-alcohol refreshments are available at all times when the premises are open for the sale of liquor.

- Do you offer low-alcohol refreshments to patrons at all times?
- How are these non-alcoholic alternatives promoted? Are they promoted by signage, featured in the beverage menu, or both?

TIP: In your plan include a description of low-alcohol refreshments you will have available, eg; low-alcohol beer and that it will be available and promoted at every bar/point of service by way of signage, or as a feature in the beverage menu.

1.1.6 Safe transport options

As of 1 April 2000 a condition of your licence is that the licensee provides assistance with or information about alternative forms of transport from the licensed premises for both staff and patrons.

- What strategies do you have in place to ensure that both staff and patrons get home safely from your premises; eg; actively promote “hire a driver” type schemes, make a telephone readily available to arrange sober transport (taxi or private), provide a courtesy van, or operate a designated driver scheme?
- How do you promote these alternative forms of transport to the public?
- How do you ensure all staff are aware of these strategies?

1.1.7 Liquor promotions

Section 154A of the Sale of Liquor Act 1989 provides for a Fine not exceeding \$5,000 for a Licensee or Manager who does anything in the promotion of the business conducted on the premises, or in the promotion of any event or activity held/conducted on the premises, that is intended or likely to encourage persons on the premises to consume alcohol to an excessive extent.

- What commitment do you give to adhering to the protocol, and Section 154A?
- What steps will you, as licensee, take to ensure that all staff adhere to the protocol, and your commitment.

2. Special Licences

Ref. Section 73 Sale of Liquor Act 1989: -

'A special licence authorises the holder of the licence to sell and supply liquor, on the premises or conveyance described in the licence, to any person attending any occasion or event or series of occasions or events described in the licence'.

Applications are to be made to the agency at least 10 working days before the event date.

Note: If there is opposition to the application a Hearing will be required and the processing will therefore take longer and may not meet your deadlines. It is suggested that you discuss your intentions with the Agency staff before making the application.

The following guidelines are included as guidance as to whether a Special Licence is needed: -

You will not need a special licence to supply free alcohol at a private social gathering, that is closed to the public so that only specific people are invited, as against a situation where a general invitation is issued to anyone who might wish to turn up.

Examples

Club premises are hired for a wedding reception, the liquor is sold and supplied by the club but given away to the wedding guests. **Special licence required**

Club premises are hired for a wedding reception, but liquor is all supplied by the wedding party and given away to the guests. **No Special licence required**

A theatrical group advertises in the press a performance where liquor is to be brought along on a B.Y.O basis. **No Special licence required**

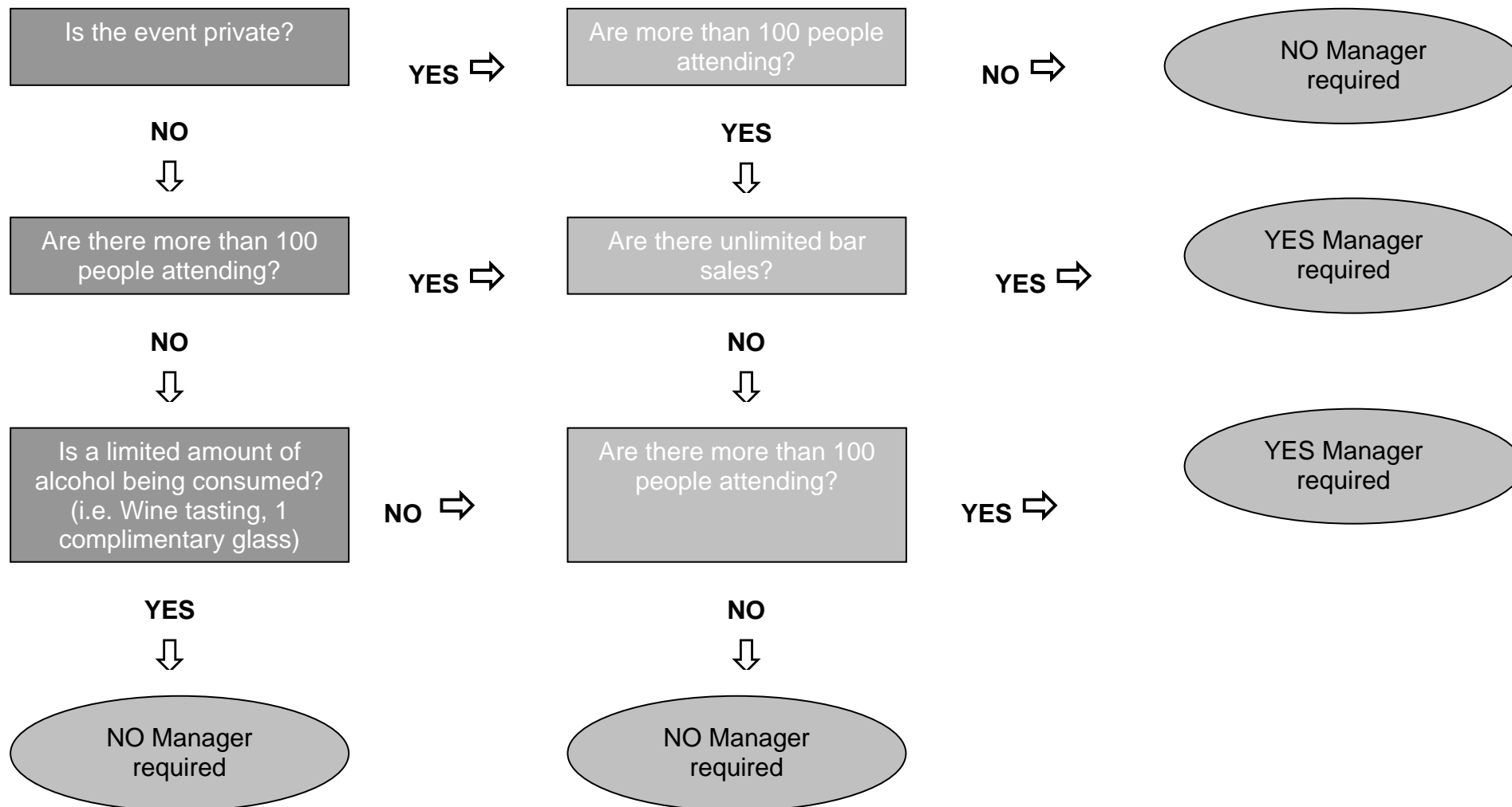
A 21st birthday party in an unlicensed community hall where all the liquor is supplied by the host – there being no sale. **No Special licence required**

What's NOT OK	What's OK
<ul style="list-style-type: none">▪ No one can sell alcohol without a licence whether or not it is included in a ticket price.▪ No one can sell alcohol to someone under 18 years of age.▪ No one can buy alcohol if they are under 18.▪ A person under 18 cannot drink alcohol in a public place.	<ul style="list-style-type: none">▪ A parent or legal guardian can supply alcohol to their child(ren).▪ Alcohol can be supplied to someone under 18 at a private party.▪ A person under 18 can drink alcohol at a private social gathering.

IS A CERTIFIED 'GENERAL' MANAGER REQUIRED FOR THE EVENT?

(A certified Manager under the Sale of Liquor Act 1989 is someone who has attended a Sale of Liquor Act 1989 course, applied for and been granted a general or club manager's certificate).

This is a guideline. Wanganui District Licensing Agency reserves the right to use its discretion in accordance with the Act:



3. Pre-Hearing Meetings

3.1 Introduction

The Sale of Liquor Act 1989 allows for objections, subject to meeting the relevant criteria. Where this opposition exists the Act says the application must be decided by way of a formal hearing – either before the Liquor Licensing Authority or the District Licensing Agency.

In either case there will be some time delay before the application can be heard. Applications to be heard by the Authority may be delayed up to twelve-months.

Sometimes the objection is based on a simple misunderstanding.

If the parties can be brought together and the perceived problems aired openly and with an honest desire to seek resolution, the need to go on to a formal hearing may be avoided.

The informality of pre-hearing meetings often allows parties to be more creative in finding mutually acceptable solutions. This is especially important where the applicant and interested parties need an on going relationship. Even when a formal hearing is subsequently required, pre-hearing meetings can help in clarifying the issues enabling the hearing to be more focused and less adversarial.

This document then aims to set clear procedures for holding pre-hearing meetings.

3.1.1 Timing

Pre-hearing meetings should be held as soon as is reasonably possible after the Agency has received advice of the opposition.

3.1.2 Facilitator

Any person involved in the applications decision-making process, eg; Inspector, District Licensing Agency Secretary, Policy Analyst etc, should not be the facilitator. It is vital to establish and maintain the trust of everyone involved; if they think the facilitator has any kind of bias they will be less inclined to participate effectively in the meeting (if at all).

3.1.3 Post Meeting

The facilitator or a minute secretary will prepare minutes/report of the pre-hearing and must include any resolutions agreed to by the parties.

After agreement by the parties as to the accuracy of the minutes/report, a copy will be provided to the parties to the hearing.

A copy will be placed on the application file and be processed in accordance with the decision of the pre-hearing, ie; no favourable resolution, application will go to a formal hearing.

3.1.4 Meeting Procedures

To ensure consistent and fair procedures are followed a guideline has been prepared.

Sale of Liquor Pre-Hearing Meeting Procedures

Procedure	Method and Task
Introduction	<ul style="list-style-type: none"> ▪ Introductions ▪ Discuss the meetings objectives ▪ Clarify the role of the facilitator and others ▪ Discuss the meaning of ‘without prejudice’
Applicant speaks to application	<ul style="list-style-type: none"> ▪ Ask applicant to speak and advise that questions are to be held until everyone has spoken
Objector(s) to explain their concerns issues or objections to the application	<ul style="list-style-type: none"> ▪ Ask objector(s) to explain concerns and advise that questions are to be held until everyone has spoken ▪ Invite input from technical experts
Identify issues	<ul style="list-style-type: none"> ▪ Summarise issues on white board ▪ Obtain agreement that these are the issues
Discuss issues	<ul style="list-style-type: none"> ▪ Encourage exchange of ideas
Identify common ground	<ul style="list-style-type: none"> ▪ Ensure agreement
Identify any still outstanding issues	<ul style="list-style-type: none"> ▪ Ask what will be needed to obtain satisfactory resolution
Break any Impasses	<ul style="list-style-type: none"> ▪ Review positive progress to date ▪ Acknowledge any impasse ▪ May need to move into private session with each party inturn. ▪ May need to accept when its time to disagree
Summarise	<ul style="list-style-type: none"> ▪ Give an overview of common ground, differences etc ▪ Explain where to from here ▪ approval process ▪ Hearing, (Liquor Licensing Authority or District Licensing Agency) ▪ What will happen to the meeting notes (onto application file, to attendees) ▪ Explain who will contact them next.
Closure	<ul style="list-style-type: none"> ▪ Thank everyone for attendance and commitment to achieve resolution ▪ Advise how the meeting summary will be distributed