

Toolbox examples for 2.3 Step 3

Example of an opening submission

Note that this is a fictional example to provide a very general illustration of how opening submissions might be framed and should not be relied on for legal principles.

BEFORE THE KINGSTON DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application pursuant to s [xx] of the Act for [type of application] in respect of premises situated at [street address/city], [licensee name] trading as '[premises' trading name]'

Opening submission

[Name of Medical Officer of Health or delegated staff member]

1. [Full name] is my full name. I am employed by [name of employer] as the [designation/delegation] with [name of public health service].
2. My work includes [description of qualifications and powers] under the Sale and Supply of Alcohol Act 2012 throughout [relevant districts/territorial local authorities]. I have over [xx] years of experience.
3. Before you today is an application opposed by the Medical Officer of Health. The grounds for opposition are that [insert the grounds of opposition – refer to the relevant sections in the Act].

[If relevant] The offence relates to [x] incidents detected in the premises from [relevant date period].

4. I will be calling [XX] witnesses and will present evidence on my own (or others') behalf.

5. [*Description of evidence – keep it brief and to the point; include photographs if relevant, and references to any relevant supporting quality research. Ensure you fully and accurately summarise the evidence.*]
6. I will seek leave to present closing submissions.

End of opening submission

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Example of an opening submission (Note footnotes numbering is out)

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BEFORE THE KINGSTON DISTRICT LICENSING COMMITTEE

Case number:

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

AND

IN THE MATTER of an application by Rajesh Kumar pursuant to s 99 of the Act for an off-licence in respect of premises situated at 2 Drury Lane, Kingston, known as 'Kings Bottle Store'

BETWEEN

Rajesh Kumar
Applicant

AND

Russell John Brown
(Kingston District Licensing Inspector)
To assist

Mary Kingi
(Police Officer, Kingston)
To assist

Helena Smyth
(Representative of the Medical Officer of Health)
To assist

SYNOPSIS OF OPENING SUBMISSIONS OF THE INSPECTOR

MAY IT PLEASE THE COMMITTEE

1. The committee has before it the following matter:
 - 1.1 An application for an off-licence.
 - 1.2 None of the agencies are opposed to this application. There have been 38 public objections, which is why this application is being determined at a hearing by this committee.
 - 1.3 Although I have no opposition to this application I have provided information to the committee to assist it in its determinations.

The Law

2. The purpose of these submissions is to highlight, for the assistance of the committee and the parties, the law regarding public objections as there are a significant number of objections to this application.
3. It is for the committee to determine that an objector has an interest in this application that is greater than that of the public generally.¹
4. Objections can only be made in relation to the criteria at s 105.²
5. I submit that objectors should first satisfy the committee that they meet the first test under s 102(1) before their substantive evidence is heard.
6. The Authority provided guidance with regard to this test in [Eastern Foods Naenae Limited LLA 301/2003](#):

¹ S 102(1)

² S 102 (3)

[9] In *Purification Technologies Ltd v Taupo District Council* (Decisions W 10/95) [1995] NZRMA 197, an issue arose as to what was meant by “*having an interest in the proceedings greater than the public generally*” under s.274 of the Resource Management Act. Applying Australian authorities the Planning Tribunal held:

“... on the true interpretation of the section, the interest in the proceedings greater than that of the public generally which qualifies a person to appear and call evidence must be one of some advantage or disadvantage, such as that arising from a right in property directly affected, and which is not remote.”

7. I submit that the committee must examine how an objector will be affected³.
8. In relation to the matter of no oppositions from the agencies, I wish to bring to the attention of the committee the decision of the Authority in [Corrine Smith v Kiwano Limited \[2016\] NZARLA PH 497](#). The Authority made comments on the:
 - role of the inspector and DLC
 - weight to be given to the evidence of the objectors
 - obligations of the DLC to direct that reporting agencies respond to the evidence of objectors.
9. This decision should be read as a whole.
10. The Authority confirmed that Police and the Medical Officer of Health only have to report if they have matters in opposition.⁴ See also s 103 of the Act.
11. The Authority also confirmed that Police and the Medical Officer of Health have no requirement on them to provide a report making an assessment of each of the s 105 criteria where they have no matters in opposition.⁵

³ For example *Eastern Foods Naenae Limited*, NZLLA 301/2003 at [10].

⁴ *Corrine Smith v Kiwano Limited* ARLA PH 497/2016 at [39].

⁵ *Supra* at [40].

12. At [40] to [42] the Authority gives guidance on what is expected of the agencies with regard to providing information and assessing objections. It confirmed the statements of Heath J in *Otara-Papatoetoe Local Board*.⁶

[33] I consider it is important for those responsible for reporting to the Authority to collect and collate information of that type and to have regard, in doing so, to any local authority guidelines which represent a community's stance, after a consultation process has been completed. That does not necessarily require a lengthy report or detailed research. For example, police officers will know, from daily and nightly observations, of concerns of the type raised by the Board.

13. I submit this means that the agencies should provide information about a locality to the committee. This may be observations or information about the area that they are aware of. This does not mean they must oppose an application. Of note, there is no community stance in Kingston that has been consulted on. This would be a LAP, which is currently under appeal.

14. The Authority states at [42] in *Corrine Smith v Kiwano Limited*:

Given that it is expected that the Police, and for that matter the Medical Officer of Health, will know from their observations whether there are any concerns with an application, it is for the DLC to undertake this s 105 evaluation based on the evidence before them, including information provided to them by these agencies, if any. Similarly, there is no requirement for the Police and Medical Officer of Health to report on objections by other parties, those being matters for the DLC to consider as part of its evaluative exercise. In fact, the only party entitled to the objections under s 105(2) (sic) is the applicant. There is nothing in s 103 of the Act expressly requiring the reporting agencies to consider the objections.

15. The Authority goes on at [43] to confirm the stance of the High Court in *Otara-Papatoetoe Local Board* that the DLC must undertake an evaluative exercise in considering the reports and any objections.

At [44] the Authority discusses the role of the inspector:

⁶ [2012] NZHC 1406.

...one of the purposes of the inspector's report is to provide some basis on which the decision maker – here the DLC – can act in determining whether the grant of a licence will meet the statutory criteria. In this regard, it is expected that the inspector will comment on each of the criteria in s 105, to the extent it can...

16. Finally the Authority provides guidance on obligations relating to questioning witnesses:

[73] There is nothing in this inquisitorial function that requires the DLC to seek an explanation from a reporting agency as to their non-opposition.

[74] As regards the question of whether objectors have the right to question reporting agencies as to the reasons for not opposing an application, the short answer is 'no'.

[75] DLCs do not have an obligation to require reporting agencies to respond to the evidence of objectors. Similarly, unless summonsed, objectors are not witnesses (although they may call witnesses).

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[76] Rather, the function of the DLC is to undertake an evaluative exercise considering the reports (if any), public objections (if any), after making whatever queries it may wish (recognising it is not obliged or constrained in this regard), and having considered any information from those reports, objections and queries, to stand back and determine whether the application should be granted (whether on conditions or not) or refused...

17. I anticipate seeking leave to make short submissions at the end of the hearing to provide guidance to the DLC as to the relevant case law and to apply this to the evidence and submissions the committee will have heard throughout the day.

Russell Brown
Alcohol Licensing Inspector

DATED at KINGSTON this day of 2017

Draft

Example of a closing submission

Note that this is a fictional example to provide a very general illustration of how closing submissions might be framed and should not be relied on for legal principles.

CLOSING SUBMISSION FROM MR SAMUEL JOHNSON, LICENSING INSPECTOR, MANANUI DISTRICT COUNCIL

REGARDING: APPLICATION TO CANCEL MR THOMAS JONES' MANAGER'S CERTIFICATE UNDER S.285

1. On 1 February 2019 the Inspector applied to cancel the manager's certificate held by Thomas Jones pursuant to s 285 of the Sale and Supply of Alcohol Act 2012 (Act). The application was made on the basis of offending for which Mr Jones was convicted on 23 December 2017 but which he did not disclose as part of the application process.
2. Mr Jones asks that you not cancel his manager's certificate. He submits that the consequences of cancellation would outweigh the offending he did not disclose.
3. The Inspector disagrees. It is submitted that this type of offending strikes at the principles the Act expects managers of licensed premises to adhere to. Further, the fact of non-disclosure during the application process causes the Inspector some concern.
4. These submissions address:
 - a. The legal framework;
 - b. The facts of the offending; and
 - c. Submissions on behalf of the Inspector.

The legal framework

5. Section 285 relevantly gives any inspector an ability to apply to cancel a person's manager's certificate. The section provides:

285 Suspension or cancellation of manager's certificates

(1) Any constable or any inspector may at any time apply in accordance with this section for an order by the licensing authority—

- (a) suspending a manager's certificate; or
- (b) cancelling a manager's certificate.

(2) Every application for an order under this section must—

- (a) be made in the prescribed form and manner; and
- (b) contain the prescribed particulars; and
- (c) be made to the licensing authority.

- (3) The grounds on which an application for an order under this section may be made are as follows:
- (a) that the manager has failed to conduct any licensed premises in a proper manner;
 - (b) that the conduct of the manager is such as to show that he or she is not a suitable person to hold the certificate.
- (4) The secretary of the licensing authority must—
- (a) send a copy of the application to the manager and to the licensee of any licensed premises to which any allegations against the manager relate; and
 - (b) fix the earliest practicable date for a public hearing of the application; and
 - (c) give at least 10 working days' notice of the public hearing to the applicant and the manager.
- (5) If the licensing authority is satisfied that either of the grounds specified in subsection (3) is established and that it is desirable to make an order under this section, it may, by order,—
- (a) suspend the certificate for such period not exceeding 6 months as the licensing authority thinks fit; or
 - (b) cancel the certificate.
- (6) Instead of making an order under subsection (5), the licensing authority may adjourn the application for any period it thinks fit to give the manager an opportunity to remedy any matters that the licensing authority may require to be remedied within that period.

6. The importance of the role of a manager was articulated in [Timothy Stanley Francis PH 843/2008](#). In that case the Authority referred to the decision of [Deejay Enterprises Limited LLA 531-532/97](#), in which it had said:

“The guiding hand or hands-on operator of any company or the potential holder of a General Manager’s Certificate now receive greater scrutiny from both the Police and other reporting agencies. Character and reputation are closely examined. The law and human desires of patrons frequently tug in different directions. The Police cannot be everywhere. Little but a licensee’s or manager’s character and suitability may stand between upholding the law and turning a blind eye. Self imposed standards in accordance with the law must be set by licensees and holders of General Manager’s Certificates who control and manage licensed premises.”

7. The Authority also stated in *Francis*: “That decision [*Deejay Enterprises*] was delivered 10 years ago but is equally pertinent today.”
8. In the Inspector’s submission, the observations above remain pertinent as society continues to experience alcohol-related harm.
9. In *Francis* at paragraph 10, the Authority went on to say when referencing *WR Stewart LLA PH 881/05*:

“We believe that raising the bar for the holders of General Manager’s Certificates and keeping it at a certain height has the potential to bring about a reduction in the abuse of liquor nationwide. If certain otherwise meritorious applicants suffer in the

process that may not be too high a price to pay in order to achieve this long term goal.”

10. In [Faye Lynette Starkey PH 145/2003](#) and PH 147/2003, at paragraph 24, the Authority reminded itself of the High Court decision *Hayford v Christchurch District* AP201/92, in which Justice Holland had said:

“A holder of a liquor licence under the Sale of Liquor Act 1989 is granted a privilege. It permits him to sell liquor when others are not permitted to do so.”

11. The Inspector submits that the same principle can be applied to manager’s certificate holders.

The offending

12. The Summary of Facts is attached.

13. Mr Jones was convicted, fined \$500, ordered to pay Court costs, and disqualified from driving for 6 months.

Submissions on behalf of the Inspector

14. The Inspector submits that it is open for the Committee to cancel Mr Jones’ manager’s certificate for reasons including:
- a. Mr Jones was granted a manager’s certificate on 19 August 2018. During an interview as part of the application process, the consequences of any convictions and the standards expected of general managers were discussed in general terms.
 - b. Mr Jones was specifically asked whether he had any previous convictions. He did not disclose that he had a conviction for excess blood alcohol entered on 23 December 2017.
 - c. Also, Mr Hanbury states in paragraph 16 of his submission that Mr Jones will lose his employment if he loses his manager’s certificate. In contrast, Mr Jones has given evidence before the Authority that he is employed as a chef. The Inspector observes that a chef does not require a manager’s certificate and as a matter of general good practice a chef should not be appointed as a duty manager. In the circumstances, it would seem unusual that Mr Jones’ employment would be at risk should his manager’s certificate be cancelled. The Inspector submits that further evidence of this risk and its likelihood of being realised is required.

15. In the Inspector's submission, a conviction for excess breath alcohol would have been highly relevant to the Committee determining Mr Jones' application for a manager's certificate. The fact of non-disclosure during the application process is also of concern.
16. It is submitted that Mr Jones is unsuitable to continue to hold a manager's certificate at this time. It is open to the Committee to cancel Mr Jones' Manager's Certificate.

Mr Samuel Johnson, Licensing Inspector, Mananui District Council

Draft

Example brief of evidence to ARLA

Note that this is a fictional example to provide a very general illustration of how a brief of evidence might be framed and should not be relied on for legal principles.

BEFORE THE ALCOHOL REGULATORY AND LICENSING AUTHORITY

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by The Cue Bar (1997) Limited pursuant to s 127 of the Act for the renewal of an on-licence

EVIDENCE OF SAMANTHA HELEN SWAN

My full name is Samantha Helen Swan.

I am a licensing inspector for Rotonui City Council in Rotonui and have held this position for the past 18 months. I was also a licensing inspector for the Kingston District Council for two years from 2011 to 2013.

This brief is made in addition to my original report for the renewal application dated 30 July 2014, and subsequent supplementary report dated 1 September 2014.

Application background information

1. On 30 January 2014 an application for renewal of an on-licence was made by The Cue Bar (1997) Limited, 'the applicant'. The premises, The Cue Bar, are located on Dunedin Street in the Rotonui Central Business District within a liquor-free area as per the Rotonui City Council Liquor-Free and Vehicle-Free Zones in Public Places Bylaw 2012.

2. The applicant sought to alter the licensed hours from those of Monday to Sunday 6am to 3am the following day to Monday to Sunday 9am to 3am the following day. This change was sought in order to comply with the maximum national default hours as set out in s 43 of the Act.
3. Police, the Medical Officer of Health and the Fire Service had no opposition to the application. No public objections were received during the notification period and the advertising was carried out correctly.

Applicant/management

4. There are two directors of the applicant company, Mrs Chrissy Louise Waterman and Mr Frank Steven Waterman. Both Mr and Mrs Waterman are the directors and shareholders of three other licensed premises in the Rotonui area.
5. Mrs Waterman holds a current manager's certificate and has done so since 2003. Mr Waterman has not held a manager's certificate since 2007.
6. Currently Ms Patty Brown is the general manager of The Cue Bar. Ms Brown began employment at the premises around 20 March 2014.
7. Two employees referred to in my initial reports are no longer employed at the premises. Ms Lisa Waterman was issued with a trespass notice for the premises by Mrs Waterman, and Ms Jane Phillips now lives outside of this district.
8. In the 14 months to 22 October 2013, since I began recording the number of management changes I receive, Mrs Waterman has submitted 58 Notice of Management Changes, or approximately four per month. Of these 58 notices, 26 directly relate to The Cue Bar, 25 directly relate to Westside Tavern, and the remaining seven pertain to the other two premises that Mr and Mrs Waterman own.
9. Of the 26 notices relating to The Cue Bar, eight were acting manager appointments, three were temporary manager appointments, four were termination or cancellation of appointment and 11 were new certificate-holding manager appointments. Of the 26 appointments made, 10 of the people were male and 16 were female.
10. The premises generally operate with one staff member onsite at any one time, and one security staff employed on the nights of Thursday through Saturday.

11. On 1 May 2014 a notice of management change was submitted for the appointment of an acting manager position for Ms Lisa Ward for The Cue Bar Irish Pub from 2 May to 19 May 2014 and was signed by Mrs Waterman. Ms Ward was replacing Ms Diane Andrews, who had left. **(Produce Exhibit 1)**
12. On 22 May 2014 a notice of management change was submitted for the appointment of an acting manager position for Ms Ward for The Cue Bar from 22 May to 11 June 2014 and was signed by Mrs Waterman. Ms Ward was to be replacing Ms Diane Andrews, who had left, "*and Lisa is sitting [the] LCQ and will apply for gen. managers cert. by 11/06/14*". **(Produce Exhibit 2)**
13. On 23 June 2014 a manager's certificate application for Ms Lisa Ward was received by the Rotonui District Licensing Committee. **(Produce Exhibit 3)**
14. A reference letter dated 23 June 2014 was attached to the application and signed by Christine Waterman as director for 'The Waterman Group of Companies', which includes The Cue Bar Irish Pub and Westside Tavern. The reference stated that Ms Ward had been working for The Cue Bar "*for the past six months on a casual basis as a bar attendant*" and "*for the past two months she has worked as an Acting Manager*".
15. On 24 June 2014 a notice of management change for the appointment of Ms Ward as temporary manager of The Cue Bar, effective from 24 June 2014, was submitted and signed by Mrs Waterman. **(Produce Exhibit 4)**
16. A notice of management change was received on 28 July 2014 notifying of the termination/cancellation of Ms Ward's manager appointment effective 22 July 2014. This was signed by Mrs Waterman and dated 27 July 2014 **(Produce Exhibit 5)**. I had made several attempts to contact Ms Ward regarding her manager's certificate application and how she would like to progress with it but was not successful.
17. I had opposed Ms Ward's manager's certificate application due to the events which had occurred and a public hearing with the DLC was set down for 12.00 noon on Monday 2 March 2015. I received an email from Ms Ward at 2.11am on Monday 2 March 2015 confirming her request to withdraw her manager's certificate application.

18. On 7 June 2014 a notice of management change for Westside Tavern was received appointing Ms Phillips as acting manager. The notice was signed by Mrs Waterman, effective from 7 June to 28 June 2014 to replace Hazel Smith, whose *"son is seriously ill"*. **(Produce Exhibit 6)**
19. A second acting appointment notification was lodged on 7 June 2014, signed by Mrs Waterman, appointing Ms Phillips from 8 June to 29 June 2014 for The Cue Bar due to the premises being short staffed. **(Produce Exhibit 7)**
20. A third notice of management change for an acting manager appointment at Westside Tavern for Ms Phillips was lodged on 30 June 2014 and dated 1 July 2014 and signed by Mrs Waterman. The acting appointment for Ms Phillips was to take place from 1 July to 21 July 2014 to replace Gill Brown. The reason given for the appointment was that *"Jane has passed the LCQ and is waiting for written confirmation to apply for gen. managers cert"*. **(Produce Exhibit 8)**
21. A fourth notice of management change for a temporary manager appointment for Ms Phillips, signed by Mrs Waterman, for The Cue Bar premises was received on 21 July 2014 and stated the appointment was required due to the premises being *"short staffed"* and also stated *"application submitted 17 July 2014"*. **(Produce Exhibit 9)**
22. A fifth notice of management change for a temporary appointment for Ms Phillips for Westside Tavern signed by Mrs Waterman and dated 21 July 2014 stated the appointment was effective from 21 July 2014. The reason for the appointment was that Gill [Brown] had left and stated *"application submitted 17 July 2014"*. **(Produce Exhibit 10)**
23. On 18 July 2014 Ms Phillips submitted an application for a manager's certificate with the Rotonui District Licensing Committee. Ms Phillips stated in the application that she would be employed at The Cue Bar Irish Pub and Westside Tavern. Ms Phillips stated that she had obtained training as an acting manager at both The Cue Bar and Westside and had been employed since January 2014. **(Produce Exhibit 11)**
24. On 5 August 2014 I used social media site Facebook to search for Ms Jane Phillips. After some time I found Ms Phillips' profile under Jayne Phillips. **(Produce Exhibit 12)**
25. On Ms Phillips' profile page, it showed several posts relating to her employment at The Cue Bar. On 8 May 2014 a post stated that Ms Phillips was moving to Rotonui and her resignation had been handed in at work. The post was made from near Palmerston South City.

26. On 1 June 2014 Ms Phillips posted the following statement: “...got a job on my first day here...”.
27. Under the heading Work and Education on Ms Phillips’ Facebook page, it showed a history of working in retail stores from 2008, from the age of 17, to 2014, when she began employment at The Cue Bar Irish Pub at the beginning of June 2014.
28. On 15 August 2014 Sergeant McDonald and I went to The Cue Bar to interview Ms Phillips for her manager’s certificate. Ms Phillips answered a series of questions regarding the sale and supply of alcohol to a satisfactory level.
29. During the interview, Ms Phillips stated that she had been working five to six days a week on a work experience basis, which lasted about a month and was around four to eight hours a day depending on how quiet it was. Ms Phillips had not been paid for the work experience undertaken.
30. The work experience had been under the tutelage of Ms Barbara Brown, who began employment on the premises on 20 March 2014 in accordance with a Notice of Management Change submitted the same day. This conflicts with the reference supplied with Ms Phillips’ manager’s certificate application signed by Mrs Waterman, which stated Ms Phillips began work experience in mid-January 2014.
31. When I asked Ms Phillips if she had carried out work experience at both premises, she stated that work experience involved undertaking any bar work at The Cue Bar; however, she did not do any work experience at Westside Tavern until her contract was signed, which was approximately a month after she started her employment.
32. I also asked Ms Phillips how she coped financially with not being paid for a month while undertaking work experience. She stated that she had “*stayed with her uncle while doing the work experience and was still there now*”.
33. I asked if she had been given any training books or tools during this training time; Ms Phillips stated she had not. She was asked if any meetings had been held between her and her employers on how she was progressing and if she was enjoying working there. Ms Phillips said no.
34. Ms Phillips was asked if she had ever attended any training meetings on intoxication, but she said she had not as they had never been held.

35. She was also asked when security staff were employed at the premises and Ms Brown, who had arrived at the premises while we were there, stated that security staff were only employed by the Watermans on Thursday and Friday nights from 11pm till closing and on Saturday nights from 9pm till closing. If security was required during other nights of the week, as more often than not there is only one staff member working, security was paid out of the staff members' own pockets.
36. When it was put to Ms Phillips that the reference and application didn't match with her Facebook posts, she stated that the reference was left for her at work and that she went along with what was stated in it as she didn't want to lose her job.
37. When asked what date she had actually started her employment at the premises, Ms Phillips stated it had been on 26 May 2014.
38. At the time the application for the manager's certificate for Ms Phillips was lodged, she had been employed at the premises for approximately 44 days.

Matters in contention

39. The first incident occurred at 2.05am on the morning of 16 July 2014, when Ms Ward was the temporary manager of The Cue Bar. CCTV footage (**Refer Exhibit 13**) shows five patrons leaving the premises, three of the five exiting with bottles. Male A is seen to stand in the middle of the road then go on to shake two pedestrian crossing poles, then attempt to punch and kick another pole and walk back to the main group, stumbling along the way.
40. Two of the five people enter a taxi and depart. Male A is seen attempting to enter the vehicle that he and Passenger A arrived in earlier in the evening. CCTV footage shows Male A crashing his vehicle.
41. Police arrive at the crash site and arrest the driver of the vehicle, and it is understood he was given a breath alcohol test.
42. Three meetings were held with Mr and Mrs Waterman following the crash. The first meeting was held on 17 July 2014 with Mr Waterman and Ms Ward, Sergeant McDonald and myself, where the events of the early morning of 16 July 2014 were discussed.

43. During this meeting Ms Ward stated twice that the group was intoxicated and should not have been served and that one of the group had stumbled and knocked over glasses at one stage. Ms Ward also admitted her partner had been there to help her close.
44. During the meeting Sergeant McDonald explained possible scenarios and options regarding certificate applications and the premises and the possibility of a hearing. At this point Mr Waterman produced a notebook containing minutes from a meeting on 5 May 2014, which Sergeant McDonald read from the back of the book. There did not appear to be any other meeting records in the book.
45. Mr Waterman stated that he did not agree with our stance and that *“everything in his power has been done”*. Mr Waterman also stated that this was a *“test case for us (being the Agencies)”* and that he would get a good lawyer.
46. Another meeting was to be arranged to enable the Watermans to view the footage of the crash. Mr Waterman asked if he could bring a lawyer, to which he was told he could.
47. The second meeting took place on 21 July 2014 at the Rotonui Police Station between Mr and Mrs Waterman, Ms Ward, Sergeant McDonald and myself. During this meeting the footage of the crash and the lead-up was shown.
48. At one point while viewing the footage, where the driver is seen to place a bottle on the roof of the car, Mrs Waterman stated, *“That looks like a bottle of Coke.”* Ms Ward agreed.
49. After viewing the footage, Mrs Waterman stated that they would obtain a legal opinion about what they would do next.
50. Mrs Waterman further stated that the customers could have brought their own alcohol into the bar and pulled it out of their tops. They (the Watermans) had previously found ‘Cody’s’, and other alcohol not sold at their premises, in the toilets in the cistern and on the floors. This was the manager’s responsibility to ensure it does not happen.
51. Mr Waterman stated that he *“didn’t feel there was more as licensees that they could have done. We have a training book that each staff member reads and signs”*. Mr Waterman also stated that s 275 of the new Act stated just that. I reminded Mr Waterman that this section was also in the old Act and was not new.

52. In a third meeting held on 18 August 2014 at the Rotonui Police Station between Mr and Mrs Waterman, Sergeant McDonald and myself, the interview held with Ms Phillips was discussed as were the references supplied with both Ms Ward's and Ms Phillips' manager's certificate applications.
53. When the issue of the inaccurate references was put to Mrs Waterman, she stated that she *"had gotten it wrong"*. Mrs Waterman stated she had spoken to Ms Phillips about working in a bar in Palmerston South and had also been told by Ms Ward that she had previously held a manager's certificate. Mrs Waterman also said she had spoken at length to the girls before writing the references.
54. During this meeting the high turnover of managers was also discussed. The Watermans stated it was difficult to find staff that would not steal, give alcohol away free or play the gaming machines.
55. Mrs Waterman also stated that they did not do work experience with people very often. When I asked if they kept records of the staff that had undertaken work experience, Mrs Waterman said no. I asked if those who undertook work experience were ever paid; Mrs Waterman again said no.
56. Mrs Waterman spoke about the employment of Ms Brown at the premises and how she goes to the premises even when she is not working to check on the place. Mrs Waterman stated that *"the place has lifted because she takes pride in the workplace"*.
57. A second serious incident occurred on the evening of Tuesday 16 September 2014 and into the early morning of Wednesday 17 September 2014. Mr John Shaw was the duty manager for the premises.
58. CCTV footage (**Refer Exhibit 14**) shows a visibly intoxicated woman and a man entering The Cue Bar at 11.35pm. At 00.08am the same intoxicated woman exits The Cue Bar, leans on a wall and falls over, causing injuries to her head requiring ambulance assistance. The woman does not stand up until ambulance staff are in attendance.
59. Police arrive at the premises at 00.10am. Six Police officers, including Sergeant Maynard and Constable Smith, who I understand have given evidence to the Authority, are onsite assessing the incident and the other patrons in the premises.

60. During the Police visit to the premises, and while some Police units are helping with the injured woman, some Police go inside the premises, as I understand a scuffle had broken out between some patrons.
61. The footage shows Police bringing both parties outside and speaking to them separately. A third member of the group exits the premises at approximately 00.24am and appears intoxicated.
62. The male wearing the black hoodie is placed in handcuffs at one stage and taken to a police car for questioning. It appears all three are asked to call a taxi and leave town. The male in the black hoodie is seen struggling to move the older woman over to and into the taxi.
63. At 00.43:31am, during the previous two incidents, a woman wearing a black puffer jacket is noticed by a female officer leaving The Cue Bar with her partner and appearing very intoxicated. The CCTV footage shows a female officer approaching the couple and questioning them and she is soon joined by Sergeant Maynard.
64. In a meeting held at the Rotonui Police Station on Friday 3 October 2014 between Mr and Mrs Waterman, Sergeant McDonald, Sergeant Maynard, John Shaw and myself, various parts of the CCTV footage were shown. Sergeant Maynard's observations of all persons and the evening's activities were explained. Sergeant Maynard has spoken to this in his evidence.
65. During the meeting Mr Shaw stated that he had signed a statement for the Watermans to say that there were no intoxicated people in the bar that evening. I have not seen a copy of this document.
66. At the end of the meeting, Mr Waterman stated that "*the footage from inside was not conclusive enough*" and that they "*would be guided by an advisor*".
67. I received a Notice of Management Change signed by Mrs Waterman dated 13 October 2014 notifying of Mr Shaw's termination from the premises as at 7 October 2014. **(Produce Exhibit 15)**

Social media enquiries

68. Following the incident on 15 to 16 July 2014, I undertook further investigation of the premises by using social media, in particular Facebook. On 27 July 2014 I viewed The Cue Bar's Facebook page. The page stated it was a Sports Bar, Night Club and Karaoke (bar). **(Produce Exhibit 16)**
69. A post-dated 24 August 2014 showed a picture of Ms Ward behind the bar at The Cue Bar, with a comment "*Ali is an angry Butterfly... – with Lisa Ward*" above the picture. A further picture from the same night shows a picture labelled "*Our Bouncer*", with a male sitting at the bar with an open bottle of Woodstock Bourbon and Cola in front of him on the bar.
70. A further check I made of The Cue Bar's Facebook page on Thursday 29 January 2015 indicated that the page I had previously searched for no longer had any pictures posted since 23 November 2013. It appears all pictures and posts since November 2013 had been removed and it was also now referred to as a Community instead of a Sports Bar, Night Club and Karaoke (bar).
71. I am uncertain if the page and postings viewed on 27 July 2014 had been removed completely or altered, removing all photos and posts posted on the page after 23 November 2013.

Draft

Example witness list

This could be completed by the parties and provided to the DLC.

WITNESS LIST – IN THE CASE OF [name of the file]

List the witnesses in order

[Name of witness]
providing]

[Job title]

[Name relevance to case eg, Photographer]

[Name of evidence the witness is

[Date and time of the evidence]

[Name of witness]
providing]

[Job title]

[Name relevance to case eg, CPO Youth]

[Name of evidence the witness is

[Date and time of the evidence]

[Name of witness]
providing]

[Job title]

[Name relevance to case eg neighbour]

[Name of evidence the witness is

[Date and time of the evidence]