

DISTRICT LICENSING COMMITTEE

Application

018-0411

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by
Aisha Jacqueline Abbott
for a manager's certificate
pursuant to section 219 of the Act

OTOROHANGA DISTRICT LICENSING COMMITTEE

Chairperson: Mrs S Grayson
Members: Dr P Davies, Cr R Johnson

HEARING on 10 March 2023

APPEARANCES

Ms A Abbott – Applicant
Mrs M Fernandez - Licensing Inspector
Ms Nam Pham – Licensing Inspector assisting Mrs Fernandez
Constable Fleming – Police

DECISION OF THE ŌTOROHANGA DISTRICT LICENSING COMMITTEE

1. The application for a manager's certificate is declined.
2. Publication of the personal statement given by Ms Abbott and the attached evidence, including medical records and character references and any oral evidence given about these documents, is prohibited pursuant to section 203(5).

REASONS

Introduction

1. Ms Abbott works at The Thirsty Weta Bar and Eatery in Ōtorohanga as a barista, bartender and waiter serving food and drinks. She has applied for a manager's certificate. Ms Abbott's application is opposed by the Licensing Inspector and Police primarily because she has had multiple interactions with Police and a number of these involved alcohol. This raises concerns about whether Ms Abbott is a suitable person to hold a manager's certificate. Therefore, the application was set down to be heard at a public hearing.
2. In considering an application for a manager's certificate we must consider the following questions:¹
 - a) Is Ms Abbott a suitable person to be a duty manager and does she have any convictions? Have the Inspector and Police raised any relevant matters in their reports?
 - b) Does Ms Abbott have any recent experience in controlling any premises for which a licence was in force? Has Ms Abbott undertaken appropriate training and completed relevant qualifications under section 218?

¹ Section 222 Sale and Supply of Alcohol Act 2012 (SSAA)

3. In addition, we have been asked by the Licensing Inspector to consider making a non-publication order regarding the evidence given by Ms Abbott, due to the personal nature of it.

Is Ms Abbott a suitable person to be a duty manager and does she have any convictions? Have the Inspector and Police raised any relevant matters in their reports?

4. A duty manager is responsible for ensuring compliance with the Sale and Supply of Alcohol Act 2012 and with the specific conditions of the licence for the premises.² The object of the Act is that the sale, supply and consumption of alcohol should be undertaken safely and responsibly, and the harm caused by excessive or inappropriate consumption of alcohol should be minimised.³ Alcohol related harm includes; any crime, death, disease, disorderly behaviour, illness or injury caused directly or indirectly by the excessive consumption of alcohol.⁴ A duty manager must take steps to run the premises in a manner that minimises harm caused by excessive or inappropriate consumption of alcohol.⁵
5. Suitability is a broad concept. In essence a duty manager must be the type of person who can be trusted to properly carry out the responsibilities that go with holding an alcohol licence.⁶ A prospective Duty Manager must be able to demonstrate high standards of behaviour both on and off-duty. Responsible consumption of alcohol is particularly important given the requirement for a duty manager to minimise harm caused by excessive or inappropriate consumption of alcohol.
6. Sergeant Walker states in his report dated 28 November 2022 that Ms Abbott is 21 years old and holds a restricted driver's licence. She has had multiple traffic infringements between 2017 and 2021 including; a person under 20 with breath containing alcohol, three occasions exceeding the speed limit and five learner driver offences. Ms Abbott's driver's licence was suspended for three months in 2020 because she had excess demerit points. In addition, Ms Abbott has had a number of other interactions with Police. None of these interactions has involved charges being laid or a conviction. In the period from January 2019 and March 2022, Police have been called to incidents involving Ms Abbott on eight occasions. These included fighting and disorderly behaviour and several involving wilful damage. On one occasion Ms Abbott was intoxicated after drinking on 'crate day'. Police spoke with Ms Abbott on each occasion and two incidents resulted in a trespass order being issued and one resulted in a warning being given.
7. From a Police perspective the main concern is whether Ms Abbott's involvement in incidents involving fighting, alcohol and traffic infringements indicate a pattern of behaviour that would adversely affect her ability to act effectively as a duty manager.
8. The Licensing Inspector, Mrs Fernandez, is concerned about the interactions that Aisha has had with Police, especially those involving alcohol, and opposes the application based on suitability. Ms Abbott told her that she has had family issues in the past that have contributed to her behaviour as she was growing up. Mrs Fernandez would like to see evidence that Ms Abbott is genuine in her desire to change and move forward in a positive way, and that she will not revert to her previous behaviours.
9. Ms Abbott explained the circumstances surrounding the incidents listed in the Police report. She denied being involved in one incident involving fighting and admitted being present during another public fight. One incident was a family matter in which she was trying to protect her sister. Ms Abbott agrees that she was responsible for wilful damage on two occasions. On one of these occasions, she was very intoxicated

² Section 214 SSAA

³ Section 4(1) SSAA

⁴ Section 4(2)(a)

⁵ Section 214 SSAA

⁶ *Re Sheard* [1996] 1 NZLR 751 (HC) and *Re DeeJay Enterprises Limited* LLA 531 – 532/97 and *Re Millward* LLA 531/97 – 532/97

and does not remember much about it. On another occasion she was upset because she had lost a close cousin.

10. When questioned about her alcohol use, Ms Abbott stated that she only has an occasional drink now. She outlined some of the challenges she has experienced in her family growing up which have affected her behaviour, and some of these involved alcohol abuse. Ms Abbott says that she is now in a supportive relationship and has good support from her partner's family. Her partner's mother, Ms Lanigan attended the hearing and spoke in support of Ms Abbott. She said that Ms Abbott is now living and working in a supportive environment and has set positive goals and knows when to reach out for support. Ms Lanigan has observed Ms Abbott dealing with customers at Thirsty Liquor in a positive capable manner. Ms Abbott also provided three other written letters of support from family, friends and a previous landlord.
11. Ms Abbott says that she has been working in hospitality for a number of years, starting as a dishwasher and now in the service of food and alcohol. She has been inspired to take more of a leadership role by her Manager. Ms Abbott believes that she has grown up and is now more patient. She has stopped having contact with people who have had a negative impact on her. She has the skills to be a good duty manager and to be a good leader for other bar staff. Ms Abbott says that a good leader needs to: listen to the team, put their foot down when needed, be able to smile in a stressful situation, be trustworthy and honest.
12. Ms Abbott was honest in describing her interactions with Police. She has given us some insight into the challenges she has faced growing up and the impact this has had on her behaviour. Despite these challenges Ms Abbott has taken a number of positive steps towards becoming a responsible adult. Sergeant Fleming commended Ms Abbott in the hearing for her honesty.
13. After hearing the evidence of Ms Abbott, Mrs Fernandez remains in opposition to Ms Abbott's application on the grounds of suitability. Mrs Fernandez is concerned that the most recent incident involving Police was only 12 months ago. We agree with Mrs Fernandez. Ms Abbott is still very young at only 21 years of age. The role of a duty manager requires a considerable amount of maturity and self-control. It also requires a high standard of behaviour both on and off duty. We would like to see another 12 months without any incidents where Police need to intervene because of poor behaviour on the part of Ms Abbott. In effect we would like to be reassured that the pattern of incidents that required Police involvement, has ended.

**Does Ms Abbott have any recent experience in controlling any premises for which a licence was in force?
Has Ms Abbott undertaken appropriate training and completed relevant qualifications under section 218?**

14. In her application Ms Abbott says that she has received training on how to identify a customer who is intoxicated, and The Thirsty Weta Host Responsibility Policy and on-licence conditions. Mrs Fernandez, reports that Ms Abbott holds the Licence Controller Qualification and that when she interviewed Ms Abbott she presented very well.
15. Ms Abbott's employer Lalit Arora, owner of The Thirsty Weta Bar and Eatery, has written a letter of support for Ms Abbott, stating that "she has exhibited the skills and characteristics of a manager".
16. Mrs Fernandez reports that Ms Abbott has experience working as a bartender at a number of different licensed premises over the past four years.
17. At the hearing Ms Abbott was asked several questions about the responsibilities of a duty manager and the conditions of The Thirsty Weta on-licence. She was able to talk about some aspects of the SCAB Intoxication Assessment Tool, such as the green/orange/red system, but was unable to explain what SCAB stands for and how it should be applied. Ms Abbott was able to explain some of The Thirsty Weta on-licence conditions correctly, however she was not able to explain all of the days that alcohol cannot be sold, or what designations apply to different parts of the premises. Ms Abbott could not explain what a

supervised and an undesignated area means. These are very important things for a duty manager to understand.

18. Ms Abbott does not have an adequate understanding of all aspects of the responsibilities of a duty manager and will benefit from further training and on the job guidance from a qualified duty manager.

Should a non-publication order should be granted in relation to the evidence of Ms Abbott?

19. Mrs Fernandez suggests that we should make an order prohibiting publication of the personal information of Ms Abbott, due to its personal nature.
20. We have the discretion to make an order “prohibiting publication of any report or description of any part of the proceedings”. We must consider both the public interest in being able to learn of the proceedings and the privacy of persons involved.⁷
21. We make an order prohibiting publication of the personal statement given by Ms Abbott and the attached evidence, including medical records and character references and any oral evidence given about these documents. This is because this evidence contains sensitive personal information. The public interest in learning about the proceedings of the licensing committee will not be adversely affected by the order, because this decision contains all necessary information required to understand the decision made.

Conclusion

22. Ms Abbott does have the required experience and prescribed qualification. However, her knowledge and understanding of some aspects of the role of a duty manager is not adequate and she does not meet the standard of suitability required for a duty manager. Therefore, the application for a manager’s certificate is declined.
23. However, we encourage Ms Abbott to continue gaining experience and attending training in the responsibilities of a duty manager, because she has many of the skills required to be a good duty manager. If she is still working in the industry, Ms Abbott could consider making another application for a manager’s certificate in March 2024.
24. In order to be satisfied that Ms Abbott is a suitable person to hold a manager’s certificate, we will want to see that a period of at least two years has elapsed since Police intervention relating to alcohol and poor behaviour. We say this because we need to be reassured that Ms Abbott is a mature and responsible person who does not have recent interactions with Police involving any incidents relating to disorderly behaviour or intoxication.

Dated this 20th date of March 2023



Sara Grayson
Commissioner
Ōtorohanga District Licensing Committee



⁷ Sections 203(5) & (6) SSAA