

**Civic Government (Scotland) Act 1982  
Procedure for Disposal of Applications for Licences**

**Report by Director, Corporate Resources**

**1 Purpose of Report**

This report outlines the procedure to be adopted for a Hearing; and this report should be considered along with each application.

**2 Procedure for Considering Applications at Hearings**

The Procedure for considering applications is as follows:-

- 1 The objectors are given the opportunity to explain the basis of their objection (copies of the representations have been previously circulated to the applicant).
- 2 The applicant and the Members are given the opportunity to question the objectors.
- 3 The applicant is given the opportunity to speak in support of the application; and respond to the comments which have been made.
- 4 The objectors and the Members are given the opportunity to question the applicant.
- 5 The objectors and then the applicant are given the opportunity to sum up.
- 6 The Committee take a decision on the matter in the presence of the applicant and the objectors. The Committee may first adjourn but only for the expressly stated purpose of seeking procedural or legal advice (normally from the Clerk or Legal Adviser) and not for the purpose of taking the decision in private. The reasons for making the decision should be explained when conveying the decision.

**3 Disposal of Applications for Licences**

In disposing of an application for the grant of a licence the Committee may:-

- (a) grant the licence unconditionally;

- (b) grant the licence subject to conditions; or
- (c) refuse to grant the licence.

The Committee may refuse an application for a licence if, in their opinion –

- (i) the applicant or any other person responsible for the management of the activity is not a fit and proper person to be the holder of the licence;
- (ii) the activity to which it relates would be managed by or carried on for the benefit of a person other than the applicant who would be refused the grant of such a licence if he made application himself;
- (iii) where the application relates to premises, those premises are not suitable or convenient for the activity having regard to –
  - (i) the location, character or condition of the premises;
  - (ii) the nature and extent of the proposed activity;
  - (iii) the kind of persons likely to be in the premises;
  - (iv) the possibility of undue public nuisance;
  - (v) public order or public safety; or
- (iv) there is other good reason for refusing the application.

Otherwise the Committee must grant the application.

If the Committee grant conditionally or refuse the application, the applicant has the right of appeal to the Sheriff. The Sheriff may uphold an appeal only if he considers that the Licensing Authority in arriving at their decision:-

- (a) erred in law;
- (b) based their decision on any incorrect material fact;
- (c) acted contrary to natural justice; or
- (d) exercised their discretion in an unreasonable manner.

There is no right of appeal against the Council's decision in relation to applications for Temporary Licences.

#### **4 Spent Convictions**

In former times, where the Chief Constable intended to libel convictions which are 'spent', if the Committee agreed that justice could not be done without disclosure of these, the spent convictions were heard and details circulated if so agreed together with the report.

More recently, at the request of the Committee, the practice has been to circulate the reports in full and deal with this issue at the start of the Hearing.

#### **5 Recommendations**

The Committee is recommended to note the terms of the report.

#### **6 Report Background and Appendices**

##### **6.1 Background**

Civic Government (Scotland) Act 1982.

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<b>Background Papers:</b>	<b>File CG 10.7 (RGA)</b>	