

Draft Procedure for Disposal of Applications for Period Approvals

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 Disposal of Applications for Period Approvals

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

- (a) grant the Period Approval subject to the standard conditions;
- (b) grant the Period Approval subject also to other reasonable conditions; or
- (c) refuse to grant the Period Approval.

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

- (i) the applicant is not a fit and proper person to be the holder of the Period Approval;
- (ii) generally the 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
- (iii) there is other good reason for refusing the application.

Otherwise the Committee must grant the application.

If the Committee grant subject to additional conditions 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.

3 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.

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

7 August 2013

Contact Person:

Background Papers:

R G Attack

File CG 10.1 (RGA)

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