

## ABERDEEN CITY LICENSING BOARD

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COMMITTEE	Licensing Board
DATE	4 September 2018
TITLE OF REPORT	Procedure for Determination of Occasional Licence or Extended Hours Applications

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### 1. PURPOSE OF REPORT

To establish a procedure for the determination of Occasional Licences or Extended Hours applications that require to be considered by a Sub-Committee of the Board in accordance with the Scheme of Delegation.

### 2. RECOMMENDATION(S)

It is recommended that the Board agree on either Option ONE, Option TWO or Option THREE detailed below as the procedure for the determination of applications for Occasional Licences or Extended Hours that require to be considered by a Sub-Committee in terms of the approved Scheme of Delegation.

### 3. BACKGROUND/MAIN ISSUES

In terms of the approved Scheme of Delegation, applications for Occasional Licences or Extended Hours which have attracted representations require to be determined by a Sub-Committee of the Board. Currently this is done on a rota basis, with 3 Board Members sitting at any one time. There have been isolated incidences where similar applications resulted in different outcomes under this system and accordingly it was suggested that alternative options be considered.

### 4. OPTION ONE – STATUS QUO WITH LONGER ROTAS

This option would see the rota system continue as currently operated. Three Members would be placed on the rota at one time and those Members would be contacted by e-mail when an application or applications require to be determined. The application(s) would be placed in the Members Lounge for consideration along with a decision sheet for completion by the Members on the rota. The decision sheet would indicate whether or not the application(s) should be granted and the reasons for each decision.

#### Pros

- Flexibility which allows decisions to be reached in a short space of time.
- Applications can be viewed by Members when convenient to do so.

#### Cons

- Potential risk of inconsistency when the membership of the sub-committee is changing on a regular basis.
- Perceived lack of transparency and formality as no formal meeting

Should the status quo be the preferred option it is suggested that each rota should last a longer period of time to attempt to ensure that all applications for the same or similar events are dealt with by the same sub-committee. This would reduce the potential risk of inconsistency.

### 5. OPTION TWO – INFORMAL SUB-COMMITTEE MEETINGS

This option retains the basis of option one but expands upon the concept to introduce greater scope for discussion when considering the applications. It would again involve a rota system where 3 Members would be notified when applications require to be considered. A mutually convenient date and time would then be fixed for the three Members to consider the applications together. Legal support would also be available if required but neither the applicant or consultee would be invited. The decision sheet would then be completed with the consensus of the 3 Members and the reasons for reaching that decision.

#### Pros

- Retains a degree of flexibility and efficiency.
- Allows Members on the rota scope for discussion when coming to a decision.
- Should allow greater transparency and formality and provides more robust reasons for decisions to be recorded.

#### Cons

- There would still be a risk of inconsistency although this should be lessened by the opportunity to discuss the applications thoroughly before coming to a decision.
- Potential delays if a mutually convenient date and time for all 3 Members cannot be arranged.
- Meetings would not be public so there could still be a perceived lack of transparency.

## 6. OPTION 3 – FORMAL SUB-COMMITTEE MEETINGS

This option would be organised similarly to option 2 but would involve formal, public meetings. The applicant and any consultee who had submitted representations would be invited and a full formal hearing would be held.

### Pros

- Complete transparency in decision making.
- Opportunity to question all relevant parties before coming to a decision.

### Cons

- Notice periods would have to be adhered to which could risk a high number of applications being unable to be determined in time.
- Potential difficulties in finding appropriate accommodation and mutually convenient date/time for hearings.
- Increased staffing costs
- Lack of flexibility and convenience for Members and applicants.

It should be noted that the legislation specifically states that the Board does not require to hold a formal hearing in such circumstances, provided the applicant has been given the opportunity to comment upon any representation. The most likely reason for this is the fact that many such applications are time sensitive, and so to undergo the formal hearing procedure would mean applications would have to be submitted a considerable time in advance of the event to guarantee a decision being made on the application, something which is not always possible.

## 6. NEIGHBOURING BOARDS

As part of the exercise officers were requested to establish the procedure in neighbouring Board areas for comparison purposes. In all 3 Aberdeenshire Divisional Boards the decision is delegated to the Clerk following consultation with the Convenor and is largely carried out by e-mail. In Moray, decisions are delegated to the Convenor and Vice-Convenor, with a third Member consulted if there is no consensus. If either the Convenor or Vice-Convenor is unavailable, then any other Board Member can substitute. Again, all correspondence is by e-mail.

## 7. MISCELLANEOUS

In all 3 options, to reduce the risk of inconsistency it would be possible to establish a permanent membership of the Sub-Committee with the operation of substitutes in the case of unavailability.

8. REPORT AUTHOR DETAILS

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