Regulatory sub committee guidance notes

CLACKMANNANSHIRE
COUNCIL

www.clacksweb.org.uk

REGULATORY SUB-COMMITTEE: PROCEDURE NOTE

The Sub-Committee is made up of 6 councillors and is chaired by the Convener. Details of current office holders can be found on our website www.clacksweb.org.uk

The Sub-Committee has responsibility for a range of licensing functions such as taxi licensing and the licensing of marriage venues. The Sub-Committee does not deal with liquor licensing. That is dealt with by the Licensing Board. On a day-to-day basis officers in Administration and Legal Services, acting under delegated powers, process applications. Where an application is not straightforward, for example if the applicant has previous convictions it will be referred by officers to the Regulatory Sub-Committee. It is also possible that an application may be referred to the Sub-Committee for a decision because it cannot be decided under the powers delegated to officers.

The Sub-Committee also takes decisions on whether a licence should be suspended.

The Sub-Committee has the power to grant or refuse all applications that are referred to it for decision.

This leaflet aims to explain the general procedure when the Regulatory Sub-Committee deals with applications for licences under the Civic Government (Scotland) Act 1982 and other acts. The regularity of Sub-Committee meetings will depend on the number of applications that are awaiting decision.

Where does the Regulatory Sub-Committee meet?

Regulatory Sub-Committee meetings normally take place in the Council Chamber within the Council headquarters at Greenfield, Alloa. The layout of the Chamber is shown on the last page of this leaflet.

Applications to be dealt with by the Sub-Committee

You will have received a letter telling you that your application needs to be dealt with by the Sub-Committee for one or more of the following reasons:

1. We have received an objection to, or a comment on, your application.
2. Officers are supportive of the application but the application cannot be decided under delegated powers.
3. This is a matter, which the Sub-Committee wants to deal with.
4. You have a conviction (or convictions), this may include spent convictions or a case that is due to be heard (see the *note below); or
5. We have received a complaint about you.

*Note
Spent convictions are ones that the Rehabilitation of Offenders Act 1974 applies to. Applicants are required to provide details of all previous convictions, including spent convictions. However, there is a procedure to be followed before the Sub-Committee can take account of spent convictions.

Spent Convictions – Procedure at the Regulatory Sub-Committee

1. If the report shows that the applicant has spent convictions, the Sub-Committee must first decide whether it can consider the application fairly without taking account of any spent convictions.
2. Before taking account of any spent convictions, the Convener will ask the police to give the age and nature of the spent convictions.
3. The applicant may then comment on whether the Sub-Committee should take account of the spent convictions.
4. If the Sub-Committee decides that it cannot consider the application without taking account of the spent convictions, the clerk will give details of the spent convictions to the members of the Sub-Committee (this information will already have been given to the applicant).
5. The Convener will invite the police to comment more fully on the spent convictions.
6. The Convener will invite the applicant to ask the police or members questions and/or to make a statement about the convictions.
7. The Sub-Committee will then decide which, if any, spent convictions are relevant to the application.

If you are objecting to an application

We will send your letter of objection to the applicant before the Sub-Committee meeting. You will not be allowed to bring any new information to the Sub-Committee unless the applicant has first had an opportunity to consider that information.

Procedure for Hearing Applications at the Regulatory Sub-Committee

Introduction

When deciding whether to grant, renew, restrict or refuse applications, we have adopted the following procedures:

Late Objections and Comments

(If there are no late objections or comments, go to 'd')

(a) The Convener will invite the objector to speak to the Sub-Committee to explain why their comments are late.

(b) The Convener will invite the applicant to speak on the reasons given for the lateness.

(c) The Sub-Committee must then be satisfied that:

- there is a good enough reason for the objection being late, in which case the relevant information will be given to the members of the Sub-Committee and the applicant or·
- there isn't a good enough reason for the objection being late, in which case the Sub-Committee will consider the application without referring to the objection.

It is important that objectors ensure that we receive objections in time, as late objections might not be taken account of.

Objections and comments received on time or late objections taken by the Committee

(d) The officer will introduce the report

(e) The Convener will invite the police or any other objectors to comment on their objection.

(f) The applicant, and members may then ask questions of objectors or of the police (in that order).

(g) The Convener will invite the applicant to summarise the case history, dealing with any matters that were raised before the Sub-Committee.

(h) The Convener will then invite members to discuss the application. The Sub-Committee may wish to discuss the matter in private. If so, all parties, except the Councillors and the Clerk, will be asked to leave the room whilst discussions take place.

(i) Voting will take place in accordance with the Council's Standing Orders.

(j) The Convener will tell the applicant the decision of the Sub-Committee. If this decision is to refuse an application, suspend a licence or impose or vary conditions of a licence, the Convenor will state the reasons for the decision.

(k) If this is a decision to suspend the applicant:

- the applicant has the opportunity to address the Sub-Committee on the period of suspension.
- The Convener will invite the Sub-Committee to discuss the period of suspension.
- Voting will take place in accordance with the Council's Standing Orders.
- The Convener will tell the licence holder about the period of suspension.

Right to Appeal (Applicants or Objectors)

If you are not satisfied with the Sub-Committee's decision, you have the legal right to ask for reasons for the decision in writing, however, the Head of Administration and Legal Services will issue a note of the Sub-Committee's reasons in all cases. This does not affect your rights.

If you are still not satisfied, you have the right to lodge an appeal with the Sheriff Clerk at Alloa against the Sub-Committee's decision. You must do this within 28 days from the date of the decision.

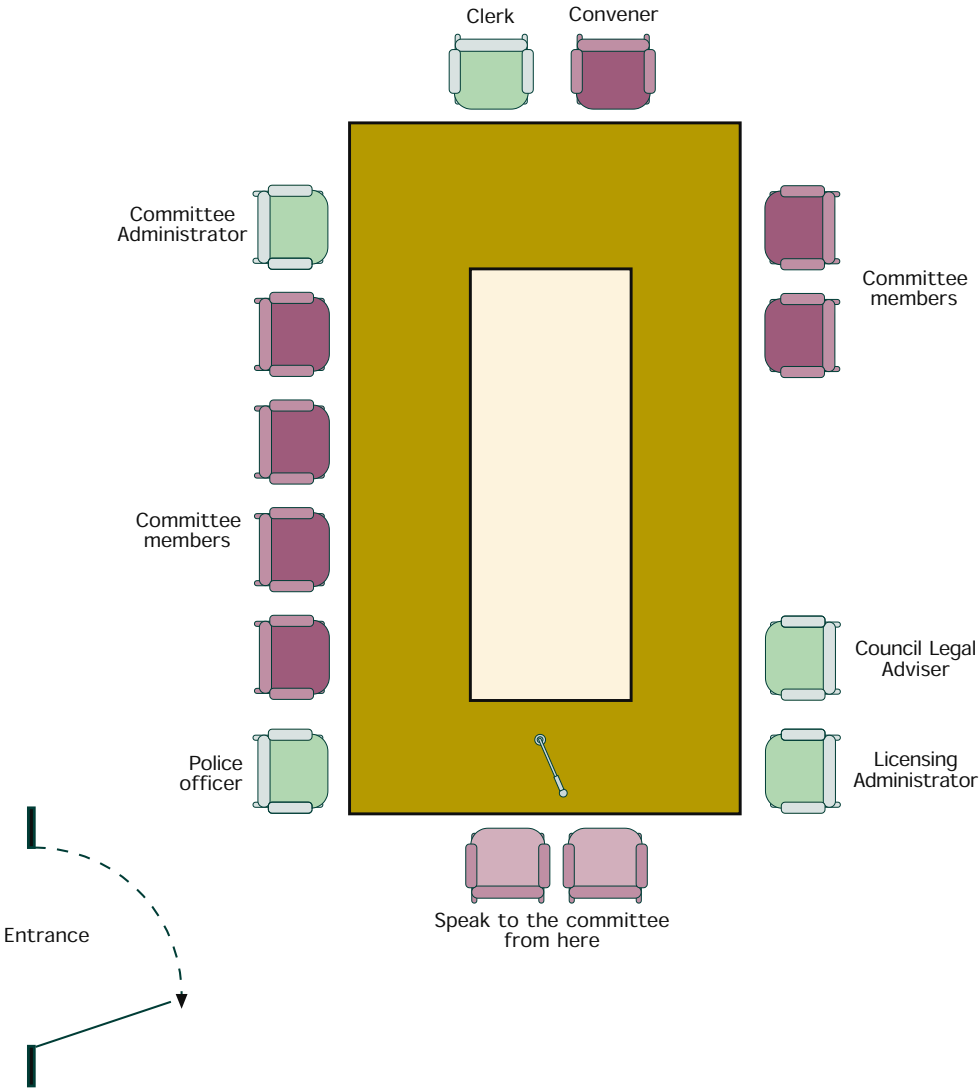
Where you are unhappy with a decision and wish to appeal, you should get independent legal advice.

We are here to help

Before the meeting, if you are not sure about any aspect of the proceedings, please speak to the Licensing Administrator or telephone 01259 452093 (email chiefexecutiveservices@clacks.gov.uk)

Comments

This leaflet is for guidance only. You should always get independent legal advice.



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