

Regulatory Committee

2.00pm, Monday, 7 January 2019

Civic Government (Scotland) Act 1982 – Proposed Update to Licensing Policy on Applications

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| Item number | 7.2 |
| Report number | |
| Executive/routine | |
| Wards | All |
| Council Commitments | |

Executive Summary

This report requests that the Committee approves measures to amend administrative policy on the timescales for receipt of applications under the Civic Government (Scotland) Act 1982.

Civic Government (Scotland) Act 1982 – Proposed Update to Licensing Policy on Applications

1. Recommendations

- 1.1 The Regulatory Committee is asked to:
 - 1.1.1 Note the contents of this report; and
 - 1.1.2 Agree to adopt the amended administrative policy as summarised in paragraph 3.6.

2. Background

- 2.1 The Council has historically sought not to define a last lodging date for applications for temporary Civic Licences and has, wherever possible, endeavoured to process applications irrespective of late receipt to ensure that events were not prejudiced.
- 2.2 The disadvantage of this approach is that it can appear that, irrespective of the lateness of the application, the Council will issue a licence regardless of any issues which may be raised by the application. A late application often means that other applications are delayed whilst attention is given to the late application.
- 2.3 In 2015 the Council reviewed its fee structure and introduced a surcharge of 20% to cover the additional costs incurred in processing late licence applications. The surcharge was primarily designed to discourage late applications. Late applications were defined as those received 28 days or fewer before the date on which the licence was requested to start.

3. Main report

- 3.1 In 2017/18 there were 90 applications which incurred the late payment surcharge.
- 3.2 Since the introduction of the policy in 2015, a practice has been identified where some public entertainment licence applications are being submitted barely more

than 28 days from the event to be licensed. This would not necessarily pose a problem, provided:

- 3.2.1 Police Scotland has not raised any objection in respect of the application; and
 - 3.2.2 Elected members or Council departments have not raised any objection in respect of the application; and
 - 3.2.3 The licence sought is consistent with any relevant Council Licensing Policy.
- 3.3 In such circumstances, officers have delegated powers to grant or refuse a licence.
- 3.3 These temporary licence applications are typically circulated for consultation and it generally takes a minimum of 14 days for any objection or policy issue to be identified. Where the application is made close to the event date and an issue is raised, granting the licence in time presents the Licensing Service with a real challenge.
- 3.4 Where an issue is identified, the application would normally be sent to the Licensing Sub-Committee for a decision. However, this is only possible if there is a committee scheduled before the requested start date of the licensable activity. Where there is a Committee meeting scheduled the agenda will have been planned in advance and sometimes can already have a number of business items to consider. The addition of a further report (or more than one) therefore impacts on the ability of the Committee to properly consider the issues raised. Additionally, if the committee feels that further work is required, elected members have found in the past that the options available on the decision are limited as the item cannot be continued to a future Committee meeting.
- 3.5 If there is no scheduled committee meeting, or the committee is unable to reach a decision, the only option available is to use paragraph 178 of the Scheme of Delegation which allows officers to make a decision in consultation with the Convener. This is not the preferred course of action as it reduces scrutiny and leaves the service to make the decision on granting the licence.
- 3.6 It is suggested that the Committee adopts an administrative policy which:
- 3.6.1 Indicates to applicants that the Council expects that, wherever possible, applications should be submitted not later than two months before the date from which the licence is required. This is with a view to allowing the Council the opportunity to consider an application, including at an EPOG (Events Planning Operational Group), and if necessary to schedule a committee hearing;

- 3.6.2 Maintains the 'late fee' surcharge for applications submitted fewer than 28 days before the requested start date, but makes it clear that payment of this fee does not guarantee that a licence will be granted;
- 3.6.3 States explicitly that where an application is submitted less than two months before it is needed this is done at the applicant's risk, and there may not be time to consider the application and determine the licence in time for the requested start date;
- 3.6.4 Makes it clear that the Council accepts no responsibility or liability for applications submitted less than two months before the requested start date not being granted by that date. Further, in the event that a licence is not determined in these circumstances, there will be no refund of the application fee.
- 3.6.5 States explicitly that event organisers are expected to plan well in advance; ensure that any application submitted is complete; and that, once an application is submitted, the Council will not accept amendments which seek to increase the capacity of the event or significantly add to the its scope or scale - in such circumstances a fresh application is required.
- 3.7 If the administrative changes outlined in paragraph 3.6 are agreed, the service will take steps to ensure that this is communicated to all stakeholders and customers, and that the Council website will be updated accordingly.

4. Measures of success

- 4.1 That any Licensing policy adopted balances appropriate protection of citizens with the need to ensure a minimum burden on economic development.
- 4.2 That any agreed changes are communicated effectively to all stakeholders and customers, as well as being included on the Council website.

5. Financial impact

- 5.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2018. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.
- 5.2 'Late fees' generate income, but it is preferable that the applications are made in good time and thus without incurring the fee.

6. Risk, policy, compliance and governance impact

- 6.1 Dealing with late applications presents huge reputational risks to the Council. In particular, if not granted, it can be assumed that the Council has failed to deliver its duty, whereas in fact the issue is that the applicant has failed to apply in good time.
- 6.2 No right to appeal against any determination of a temporary licence application.

7. Equalities impact

- 7.1 None.

8. Sustainability impact

- 8.1 None.

9. Consultation and engagement

- 9.1 Officers regularly discuss with event organisers and agents the need to ensure timeous submission of licence applications.

10. Background reading/external references

- 10.1 None

11. Appendices

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