

## APPENDIX 5 – Procedure for remote Licensing Hearings (APPLICATIONS)

- (a) Identify whether the applicant and his/her advisors are present.
- (b) Identify whether the Objector(s) and his/her advisors are present. [in turn]
- (c) If there are no protected convictions, go to (h) below.

### PROTECTED CONVICTIONS

- (d) Where the applicant has protected convictions the Chair should:-
  - (i) Invite the representative of the Chief Constable to satisfy the Sub-Committee that justice cannot be done unless the protected convictions are taken into account. (In the undernoted case, it is indicated that it would be improper to invite the applicant to make comment on the spent convictions)
  - (ii) The Chair should invite members of the Sub-Committee to ask questions;

NOTE: In the case of O'Docherty v Renfrewshire Council 1998 SLT 327, it is suggested that "at the least some sort of inquiry as to the age and general nature of the convictions would be essential to any proper decision.

- (e) The Sub-Committee then has to determine whether or not it is satisfied that there is no other way of doing justice than to look at the protected convictions in considering the application. The Sub-Committee **MAY** go into private session to consider the submissions made. It is recommended, however, that the Sub-Committee not reach any decision during the retreat.

### NOTE TO PARTIES

**If the Sub-Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to reinvite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted**

- (f) Thereafter, the Chair should:
  - (i) Call for a motion regarding the protected convictions
  - (ii) Call for a seconder to the motion
  - (iii) Call for any amendment to the motion
  - (iv) Call for a seconder to any amendment proposed.
  - (v) If there is no amendment, the Chair should confirm with the Sub-Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
  - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.
- (g) If the Sub-Committee has determined to consider the protected convictions, they will then be circulated to Members separately by email for the Sub-Committee's perusal.

### **NOTE FOR PARTIES**

**Where the hearing is in public, the recording of the meeting will be paused until the Chair is satisfied that all members have read and understood the document circulated, at which point the recording will be restarted**

THEREAFTER:

- (h) Invite the applicant to speak to his application (outline to the Sub-Committee why the application has been made and make any comments in relation to any observation/objection made in respect of the application)
- (i) Ask the Objector(s) to speak to the Objection(s) or Observation(s) [in turn]
- (j) Give the applicant an opportunity to address any issues raised by the Objector(s).

### **NOTE TO PARTIES**

- **Presentation of a case may be through the use of documents (which must be provided to all parties prior to the start of the Hearing), oral submissions made at the hearing, written submissions lodged no later than 7 days in advance of the hearing, or a combination thereof;**
  - **Cross Examination by the parties is not generally permitted**
  - **Hearsay evidence is admissible.**
- (k) Members MAY then question all parties present.
  - (l) Chair should invite concluding remarks (objector(s) then applicant), but no new evidence, before considering the application.

### **NOTE TO PARTIES**

**Once you have been asked to make concluding remarks you are not entitled to speak again, unless to answer a question from a Sub-Committee Member.**

- (m) Members may then deliberate the application and/or ask for legal advice if required. Members can choose to deliberate the application in private, however, no decisions will be made during any adjournment to deliberate in this way.

### **NOTE TO PARTIES**

**If the Sub-Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted**

- (n) Thereafter, the Chair should confirm with Members that they have sufficient evidence upon which to make a decision.

- If the Sub-Committee determines that there is not sufficient evidence upon which to make a decision, the application will be **deferred** to a future meeting of the Committee for further evidence to be obtained.
  - If the Sub-Committee determines that there is sufficient evidence upon which to make a decision, the Chair will then:
    - (i) Call for a motion
    - (ii) Call for a seconder to the motion
    - (iii) Call for any amendment to the motion
    - (iv) Call for a seconder to any amendment proposed.
    - (v) If there is no amendment, the Chair should confirm with the Sub-Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
    - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.
- (o) The Legal Officer will confirm the decision taken by the Sub-Committee

#### **NOTE TO PARTIES**

**The parties will then be asked to leave the meeting, failing which the Committee Officer will remove the parties from the meeting.**