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# Public Dance Licences: Is Public Liability Insurance Required?

In a case stated from the District Court, the High Court has determined that having public liability insurance is not a prerequisite to being granted a public dancing licence.

## Background

This case concerned an application for a public dancing licence by the Neville Hotels Unlimited Company ("**the Applicant**") in relation to the Druids Glen Hotel and Golf Resort in Co. Wicklow, pursuant to the Public Dance Halls Act 1935 as amended ("**the 1935 Act**").

The Applicant is part of the Neville Group ("**the Group**"), which is involved in business, construction and hotel sectors. Up until 30 April 2020, the Group had maintained public liability insurance for certain public liability risks, including those arising from its hotel business. From 1 May 2020, it decided to self-insure against such risks. Its reason for doing so was that in recent years, the excess on its policy was such that it had paid out on all claims from its own resources, and was effectively self-insuring in any event.

Against this background, the Applicant applied to the District Court for a public dancing licence. It said that it had sufficient liquidity, assets and reserves to fully and effectively self-insure against any and all public liability risks likely to arise from any dancing at its hotels. The Gardaí, who were a Notice Party to the application, submitted that it was normal practice for an applicant to provide proof of public liability insurance with an authorised third party insurance provider when applying for a public dance licence.

Judge Kennedy in the District Court stated a case on a point of law to the High Court. He asked the High Court to consider two questions. The first related to whether an applicant for a public dancing licence pursuant to the 1935 Act must have public liability insurance before a licence may be granted. The second related to whether the District Court was entitled to grant a public dancing licence pursuant to the 1935 Act, without making it subject to a condition that the applicant put in place and maintain a policy of public liability insurance.

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## The parties' positions

The parties were, in the main, in agreement as to the substance of the answers, accepting that public liability insurance is not a statutory requirement. However, they had a different emphasis on the correct answers to the questions posed, with the state respondents placing particular emphasis on the serious public safety concerns attaching to public dance halls in emphasising the importance of public liability insurance.

## Requirement for public liability insurance

Mr Justice Dignam considered the statutory interpretation of the 1935 Act, and found that there was no requirement in the Act for an applicant to hold public liability insurance.

The court concluded that the Act did not require an applicant for a public dancing licence to hold public liability insurance in circumstances where it can satisfy the District Court that it would otherwise be able to compensate individuals who might suffer injury. The court also noted that the District Court has a discretion whether to impose a condition that an applicant must hold such a policy having heard evidence of the applicant's financial circumstances.

The questions stated above were, therefore, answered 'no' and 'yes' respectively.

## Comment

As commented by the High Court, it seems "*extremely likely that very few applicants"* would be able to satisfy the court that they have sufficient resources to satisfy any possible claims against them from their own resources.

It is a matter for the District Court to decide whether it is satisfied with an applicant's financial circumstances, including its proposals to self-insure or to satisfy claims out of its own assets/resources, or not. If not, the District Court can impose a condition that an applicant/licensee has an appropriate public liability insurance policy in place.

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