

Licensing (Scotland) Act 2005 - Re-Appointment of the City of Edinburgh Licensing Forum and revised Constitution

City of Edinburgh Council

20 September 2012

1 Purpose of report

- 1.1 To discharge the Council's statutory function regarding the membership of the Licensing Forum ('the Forum') and to approve amendments to its Constitution.

2 Main report

- 2.1 After each election the Council is required to appoint members to the City of Edinburgh Licensing Forum. This is a statutory forum, required by the Licensing (Scotland) Act 2005 ('the Act'). The forum is independent of both the Council and the City of Edinburgh Licensing Board and does not form part of the committee structure.
- 2.2 The Forum's duties are set out in legislation specifically:
- to keep under review the operation of the Licensing (Scotland) Act 2005 within the Local Authority's area,
 - to oversee the Licensing Board's exercise of its powers under the Act; and
 - to give general advice to the Board on the exercise of its functions and the operation of the Act.
- 2.3 It is proposed that the Forum should have a membership of 21, which is the maximum number permitted in the Act. The legislation also requires that the forum is representative. The Forum should include residents and it is proposed that this is achieved by including a resident from each of the six Services for Communities Neighbourhood Areas. The proposed composition of the Forum is detailed in Appendix 1.

- 2.4 Due to the experience gained by existing Forum members, it is proposed that they be offered reappointment for the forthcoming period should they wish to continue. In addition a number of people have expressed an interest in joining the Forum. These would require to be considered in line with the proposed membership composition. Any remaining places would be advertised.
- 2.5 If Council approves the proposed Forum membership composition it is recommended that the appointment of individual members is delegated to the Director of Services for Communities in consultation with the Convener of the Forum.
- 2.6 Consultation with previous members suggests that the current Constitution is inflexible and inhibits the functioning of the Forum. Based on this feedback the Forum's Constitution has been revised to better represent affected businesses and members of the public within Edinburgh. The revised Constitution is attached at Appendix 2.

3 Financial Implications

- 3.1 The Act requires the Council to support the Forum with appropriate staff or other resources; these will be contained within existing budgets.

4 Equalities Impact

- 4.1 There are no adverse equalities impacts arising from this report.

5 Environmental Impact

- 5.1 There are no adverse environmental impacts arising from this report.

6 Recommendations

- 6.1 That the Council:
- a) agrees the proposed membership composition of the Forum as set out in Appendix 1
 - b) agrees to the reappointment of any existing member of the Forum should they wish to volunteer.
 - c) delegates authority to appoint or reappoint members thereafter to the Director of Services for Communities in consultation with the Convener of the Forum.
 - d) approves the constitution of the Forum as set out in Appendix 2.

Mark Turley
Director of Services for Communities

Appendices	1. Proposed Membership Composition 2. Draft Constitution
Contact/tel/Email	Andrew Mitchell - Community Safety Senior Manager 469 5822 andrew.mitchell@edinburgh.gov.uk
Wards affected	All
Single Outcome Agreement	Not relevant, separate statutory duty
Background Papers	

*

Proposed Membership Composition

1. Six places shall be reserved for residents' representatives who will be appointed to represent each of the six Services for Communities Neighbourhood Areas, one for each area:
 - South
 - South West
 - West
 - East
 - North
 - City Centre and Leith.
2. A Licensing Standards Officer nominated by the Director of Services for Communities.
3. A nominee of NHS Lothian.
4. The Chief Constable or their representative.
5. At least one young person who may be in addition to the residents' representatives.
6. Six places shall be reserved for holders of a premises or personal licences.
7. Any other interested person up to a maximum of 21 members.

[Note that the legislation specifically outlines that at least one member of each of the categories listed in 1 to 7 above should be included in the membership. Members would be appointed to represent a particular category]

City of Edinburgh Licensing Forum

Constitution and Remit

City of Edinburgh Licensing Forum Constitution

- 1 Title**
- 2 Introduction**
- 3 Definitions**
- 4 Terms of Reference**
- 5 Functions**
- 6 Membership**
- 7 Convener**
- 8 Meetings**
- 9 Method of Voting**
- 10 Special Meetings**
- 11 Conduct of Members**
- 12 Attendance at Meetings**
- 13 Resignation etc**
- 14 Alterations to Constitution and powers to make or amend rules**

1 Title

- 1.1 The Forum shall be known as the City of Edinburgh Licensing Forum.

2 Introduction

- 2.1 The City of Edinburgh Licensing Forum has been established to represent the views of people concerned with the operation of the licensing system in the geographical boundaries of the City of Edinburgh Council. The Forum has been established in accordance with Sections 10 and 11 and Schedule 2 of the Licensing (Scotland) Act 2005. It is the role of the Forum to keep the operation of the licensing regime, and the use of licensing powers, under review in the Edinburgh area. The Forum is also responsible for giving advice and recommendations to the City of Edinburgh Licensing Board.
- 2.2 This document sets out the Forum's constitution.

3 Definitions

- 3.1 "Act" in this constitution means the Licensing (Scotland) Act 2005 as amended from time to time.
- 3.2 'The City of Edinburgh Licensing Forum' or 'the Forum' means that body established by the City of Edinburgh Council ('the Council') in accordance with Section 10 of the Act.
- 3.3 'Licensing Board' or 'the Board' means the City of Edinburgh Licensing Board.
- 3.4 'Licensing Standards Officer' or 'LSO' means a person employed by the Council and qualified as required by the provisions of the Act.
- 3.5 'Edinburgh' means that area administered by the Council incorporated under the Local Government etc (Scotland) Act 1994.

4 Terms of Reference of the Forum

- 4.1 To keep the liquor licensing system in the Council area under regular review and to seek to stimulate debate on matters relevant to the system.
- 4.2 To respond to consultation exercises undertaken by the Board and the Scottish Executive.
- 4.3 To consider the implications of relevant local data and statistics for the liquor licensing system in the Council area;
- 4.4 To meet the Board at least once per year.
- 4.5 To give advice and make recommendations to the Board on relevant matters, except individual licensing applications.

5 Functions

- 5.1 The Forum will review the operation of the liquor licensing regime and the exercise of licensing powers in Edinburgh, and give advice and make recommendations to the Board.
- 5.2 The Forum will give advice and make recommendations to the Board in relation to policy and other appropriate areas of concern.
- 5.3 The Forum will have no involvement in the exercise of the Board's powers in any particular case or application.
- 5.4 Forum members will take all reasonable steps to encourage all relevant people to make their views known to the Forum, and to represent their views. This may include any relevant organisations and residents within the Edinburgh Council area.
- 5.5 It is inappropriate for any member to use the Forum to pursue their own interests or resolve personal issues. Unless he or she has been specifically appointed to represent that organisation, a member of the Forum must not express or promote the views of any organisation of which he or she is also a member.

5.6 The Forum is entitled, on request, to be provided with copies of any statistical information provided to the Board, for the purpose of preparing a licensing policy statement or supplementary statement.

6 Membership

6.1 Membership of the Forum must always be between five and 21 people. This number will be subject to review by the Council, from time to time, on request by the Forum, the Board or the Council's Director of Services for Communities ('the Director').

6.2 In order to be eligible for membership of the Forum, a person must be:

- Aged 18 years or above (with the exception of a member who is a 'young person')
- Able to show that he or she has an interest in the licensing system

6.3 Residents' representatives will be appointed to represent each of the six Community Planning Areas, one for each area:

- South
- South West
- West
- East
- North
- City Centre and Leith

6.4 Membership will be representative of the five key interest areas including holders of licences and young people.

6.5 A LSO, a person nominated by the Health Board, and a representative nominated by the Chief Constable will be appointed as members of the Forum.

6.6 Once the Council has appointed Forum members, it shall delegate power to the Director to reappoint members in consultation with the convener of the Forum ('the Convenor').

6.7 Members will be appointed initially for a period of two years. On a rolling basis, one third of members will be reappointed every two years.

- 6.8 Members are expected to make every effort to attend meetings. Should a member be unable to attend, he or she should contact the convener before the meeting. The member may formally nominate a substitute, to express views on his or her behalf. The substitute must be eligible for the same category of membership as the non-attending member.
- 6.9 The Council will provide facilities and reasonable expenses to assist the Forum. This may involve access to administrative support and the use of Council premises for meetings. Such facilities must only be used in carrying out Forum duties.

7 Convener

- 7.1 At its first meeting and at the first meeting in each calendar year the Forum will elect a Convener from its members. Any member of the Forum may stand for election as Convener. The Convener will hold office until the first meeting in the following year unless he or she resigns or is dismissed.
- 7.2 If the Convener is not present at any meeting, or is unable to act for any reason, the meeting may be chaired by any other member present.
- 7.3 The Convener is responsible for ensuring that meetings are conducted in an orderly fashion. The Convener should also manage the discussion so that everyone has a chance to speak, while ensuring that all agenda items are discussed in the available time. All Forum members will have a responsibility to promote participation.
- 7.4 If the Convener is unable to attend a meeting of the Forum, he or she must send his or her apologies to the Community Safety Senior Manager. The Convener may nominate a substitute to express views on his or her behalf. The Forum should nominate another one of the usual members to chair that meeting.

8 Meetings

- 8.1 The Forum will have at least four meetings in each calendar year.

- 8.2 The Forum will meet with the Board at least once in each calendar year.
- 8.3 All Forum meetings will be held in public and will be open to the media.
- 8.4 Meetings will be arranged by the Forum, in consultation with the Council, to ensure that appropriate facilities are available.
- 8.5 Dates and times of meetings, the agenda, and any connected papers will normally be issued by email or by post (if a member so requests) to the Forum members in advance of the meeting.
- 8.6 Forum papers will be posted on the Council website. This will include agenda, minutes of previous meetings, and other materials relevant to the Forum's operation.
- 8.7 The minimum number of members present for any meeting of the Forum is eight. If this minimum does not attend, the meeting will be adjourned to a later date.
- 8.8 All members may put forward suggestions for agenda items. The Convener is responsible for arranging this.
- 8.9 The Director will arrange for a note to be kept of every meeting of the Forum. This note will include:
- The names of members in attendance
 - A brief note of topics dealt with
 - A record of all decisions taken by the Forum
- 8.10 A note of each meeting will be submitted for approval at the next meeting.

9 Method of Voting

- 9.1 All members have an equal vote, with the convener having a casting vote in the event of a tie.

10 Special Meetings

- 10.1 A Special Meeting of the Forum can be called at any time by the

convener, or if at least eight Forum members request it in writing. The convener will decide on the date and place of the Special Meeting.

11 Conduct of members

- 11.1 Members must behave in a respectful and courteous manner towards others at all times while exercising Forum functions. With respect to the manner in which the Forum's business is carried out, the convener's decision is final.
- 11.3 Members should be open about their decisions and the reasons behind them.
- 11.4 All members are accountable for the Forum's decisions and actions. Each member must ensure that advice given, or recommendations made, reflects the views of the whole Forum.

12 Attendance at Meetings

- 12.1 If a member does not attend a meeting of the Forum for 2 consecutive meetings, without reasonable explanation. The Forum may consider the circumstances and if not satisfied that the member had a reasonable explanation for failing to attend, members from the Forum may vote to remove that member for the forum.

13 Resignation

- 13.1 Members wishing to resign may do so, in writing, to the Director.

14 Alterations to Constitution and Powers to Make or Amend Rules

- 14.1 The Forum at any time may submit a report to the Council asking it to amend the constitution of the Forum, or to make or amend rules relating to the Forum.