

Governance, Risk and Best Value Committee

10.00am, Tuesday, 20 February 2018

Licensing Forum: Review of Constitution and Membership

Item number	7.5
Report number	
Executive/routine	
Wards	All
Council Commitments	

Executive Summary

The Local Licensing Forum ('the Forum') is a lay advisory body set up by the Council as required by the Licensing (Scotland) Act 2005. The Forum, like the Licensing Board, is a separate legal entity from the Council and is not a Council committee. The Council has a duty to establish a Forum, to appoint the membership of the Forum and provide support and assistance as required.

A review of the Forum membership, including consultation with the existing membership at the time, took place during 2017. The Council approved a revised constitution and membership on [23 November 2017](#).

This report is in response to a request from the Governance, Risk and Best Value Committee to review how the Forum membership is appointed.

Licensing Forum: Review of Constitution and Membership

1. Recommendations

- 1.1 The Governance, Risk and Best Value Committee is asked to note the approach taken to reviewing the constitution and appointment of members for the Forum, as reported to Council on 23 November 2017.

2. Background

- 2.1 The Licensing (Scotland) Act 2005 ('the Act') requires local authorities to establish a 'Local Licensing Forum' under the provisions of the Act. Whilst Licensing Boards have been in place as separate legal entities for many years, Licensing Forums were created by the Act. However both are independent of the Council and its structures. The Act does not provide any mechanism by which the Council could exercise governance over the Forum.
- 2.2 The Act sets out the functions of the Forum, specifically:
- 2.2.1 Keeping under review the operation of the Act in the Forum's area, and in particular, the exercise by the local Licensing Board of its functions; and
 - 2.2.2 Giving such advice and making such recommendations to the Board in relation to those matters as the Forum considers appropriate.
- 2.3 The Act makes clear that the Forum's role is not to review, give advice or make recommendations to the Board in relation to the exercise of their functions in relation to particular cases.
- 2.4 Prior to the commencement of the Act in 2009 the Council operated a voluntary licensing forum in the city. This best practice model became a recommendation of the Nicholson report which was the basis of the 2005 Act.
- 2.5 The operation, membership and constitution of the Forum was reviewed in 2012 shortly after the local government elections. At that time responsibility for supporting the Forum transferred from Committee Services to the senior manager with responsibility for licensing within the Council, as the structures around committee business were believed to inhibit lay members from participating and raising issues.
- 2.6 All reports in relation to the Forum have been dealt with by Council, as none of the existing executive committees have the Licensing Forum within their remit.

- 2.7 The Regulatory Committee deals with all Council licensing functions which do not include liquor or gambling, as these functions are regulated under separate statutory regimes and fall within the remit of the Licensing Board. As the Licensing Board is a separate legal entity, the Council cannot include the Forum within the Board's remit. As the Forum has specific functions in relation to the Board as set out in the Act, such a remit would conflict with statutory requirements.

3. Main report

Local Licensing Forum

- 3.1 The Local Licensing Forum is established by the Council but is independent of both the Council and the Licensing Board. It has a specific statutory duty to keep under review the functions of the local Licensing Board. To assist with the carrying out of the Forum's functions, the Act requires the Licensing Board to meet with the Forum at least once per year. The Licensing Board is also required to 'have regard to' any advice or recommendations which the Forum may make about Licensing Board policy.
- 3.2 [The Act](#) requires the Council to establish the Forum and appoint members of the Forum. The membership cannot be fewer than five and no more than 21. The Forum must include the following representatives:
- A Licensing Standards Officer;
 - A representative of the Health Board;
- 3.3 In addition to these the Council is required by the Act to include, so far as possible, representatives or persons having an interest in the following:
- The Chief Constable;
 - Persons having functions relating to health, education or social work;
 - Holders of Premises Licences or personal licences;
 - Residents of the forums' area; and
 - Young persons.
- 3.4 The Act gives no guidance or instruction on how local membership is to be selected beyond the provisions set out above. In Edinburgh the practice has been to maximise the membership by appointing 21 members whilst endeavouring to maintain a balance between representatives of the community and the licensed trade. Membership as at 7 December 2017 is listed in Appendix 1. Members of the Forum are permitted to send a substitute provided the Convenor is notified in advance.
- 3.5 In order to improve transparency, in 2012 this constitution was amended (Appendix 3) to set out the how the 21 members would be identified, taking into account the

requirements of the Act. The membership of the Edinburgh Forum was to be drawn from the following:

- A Licensing Standards Officer;
- A Police Officer;
- A Health Board representative;
- A young person;
- A minimum of six members of the community; and
- A minimum of six members of the licensed trade.

3.6 In 2012 it was agreed that the remaining five members are to be drawn from additional community or licensed trade representatives whilst seeking to maintain balance and, where existing members wanted to continue, they were reappointed. The relevant Executive Director was given delegated authority to appoint additional members as vacancies arose.

3.7 The Forum's constitution specified how the six community representatives mentioned at paragraph 3.5 were to be distributed. At that time each Neighbourhood area (North, South, City Centre and Leith, South West, East and West) was asked to nominate a representative.

3.8 The remaining five seats not specifically allocated to a representative listed in paragraph 3.5 above were filled by volunteers. For example, a member of the Friends of the Meadows has attended the Forum for a number of years.

3.9 In order to encourage community and other interested parties to attend and participate, the constitution allows third parties to attend and speak but not to vote. This arrangement has helped widen access to the Forum. For example, a number of community councils send observers to Forum meetings to allow them to raise relevant points.

Review of Forum Membership and Constitution

3.10 Early in 2017 it was identified that this distribution of membership was no longer fit for purpose as:

- Community Planning structures were changing; and
- Historically it had been difficult to recruit a community representative from the East and West Neighbourhood areas.

3.11 Any change to the make-up of Forum membership requires amendments to the constitution, and it was therefore decided to review that document at the same time. As required by the constitution, the Council's Regulatory Services Manager initially consulted the Convenor of the Forum, attended several meetings of the Forum during 2017 and consulted the membership on:

- Changes to the constitution; and
- Proposals on how the future membership would be distributed.

- 3.12 Members were asked to consult with the groups they represented, e.g. Neighbourhood Partnerships and local community councils, and to provide written feedback or comments. A series of written comments were received and, where possible, the comments were adopted. If not, an explanation was provided as to why they were not accepted and direct feedback was provided.
- 3.13 In addition to consultation with the Forum membership, further consultation was undertaken separately with the Edinburgh Association of Community Councils to ensure that the wider community council membership in the city had an opportunity to provide feedback. Finally, stakeholders were approached for comment, including colleagues responsible for community planning and the Chief Social Work Officer.

Revised membership

- 3.14 The following changes to the make-up of the membership were proposed in the revised constitution:
- 3.14.1 In addition to the Health Board representative, the Chief Social Work Officer will be asked to nominate a representative from health or social work. It is suggested that this will be an officer from Edinburgh Drugs and Alcohol Partnership;
- 3.14.2 The Director of Communities and Families will be asked to nominate a representative, having regard to the need to encourage young persons to be involved; and
- 3.14.3 The six community representatives will be drawn principally from revised community planning arrangements
- One from each of the four localities (North West, North East, South West and South East).
 - One representative from the City Centre ward - this suggestion came from a number of sources and it made sense to include this given the concentration of licensed premises in the City Centre.
 - One representative from the Edinburgh Association of Community Councils.
- 3.15 It is recognised that Community Planning structures are still under consideration and have yet to be approved by the Council. It was therefore proposed that existing community representation should continue until new structures are agreed.
- 3.16 Once revised community planning structures are agreed, a representative will be nominated. This representative will be accountable to the area that they represent. Support and advice will be provided, if required for recruitment and selection or in the event of a vacancy. It would of course be appropriate for an area to nominate an existing representative. The clear intention is that each area will nominate their chosen representative to provide a direct link between the community and the Forum. This would of course be kept under review, should community planning structures evolve or if any concerns arise.

- 3.17 In the case of trade representatives, existing members will be reappointed if they wish to continue to serve. Where a vacancy occurs outwith these arrangements, the Department will endeavour to use volunteers who come forward, or failing this will advertise for volunteers.
- 3.18 The arrangements for additional members up to a maximum of 21, substitutes and attendance of others on an ex-officio basis, remain as set out in paragraphs 3.4, 3.8 and 3.9 above and are designed to maximise participation within what the statutory provisions allow.
- 3.19 The Council approved the revised Constitution and Membership (Appendix 2) on 23 November 2017.

Support for the Forum

- 3.20 Discussions have taken place with respect to options for supporting members of the Forum with appropriate training. A course has been identified, provided by Alcohol Focus Scotland, which would be adapted to suit local needs. This training would focus on the Forum's statutory role and strategies for influencing policy making. In addition, Council officers will continue to provide support and assistance, including information that the Forum might reasonably require. Senior Council officers and the depute Clerks to the Licensing Board will also attend Forum meetings where possible, to provide ad hoc advice and information as required.
- 3.21 The next formal review of the constitution would normally take place after the local government elections in 2022, however it can be periodically reviewed if a request is received. Similarly, any feedback from stakeholders and members will be followed up as required. Failing this, the next review would normally take place after local government elections in 2022.

4. Measures of success

- 4.1 The Council supports and encourages an active local licensing forum which reflects the proposed membership set out within the Licensing (Scotland) Act 2005).

5. Financial impact

- 5.1 The costs of supporting the Forum are minimal and are contained within the Place Directorate budget.

6. Risk, policy, compliance and governance impact

- 6.1 The Local Licensing Forum is independent of the Council and governance arrangements therein.

7. Equalities impact

7.1 There are no equalities issues arising out of the contents of this report.

8. Sustainability impact

8.1 There are no sustainability issues arising out of the contents of this report.

9. Consultation and engagement

9.1 Consultation on changes to the forum constitution and membership is detailed in paragraphs 3.10 to 3.13 above.

10. Background reading/external references

10.1 [Report to Full Council November 2017](#)

10.2 [Report to Full Council September 2012](#)

10.3 [Licensing \(Scotland\) Act 2005](#)

Paul Lawrence

Executive Director of Place

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11. Appendices

Appendix 1 – Forum Members as at 7 December 2017

Appendix 2 – The City of Edinburgh Council Licensing Forum Constitution and Remit (2017)

Appendix 3 - The City of Edinburgh Council Licensing Forum Constitution and Remit (2012)

APPENDIX 1: FORUM MEMBERS AS AT 7 DECEMBER 2017

1. Licensing Standards Officer
 - Ken Fairgrieve

2. Licence Holders and Persons with Relevant Interests
 - Graeme Arnott
 - Marshall Bain
 - Rosaleen Harley (Convener)
 - Paul Togneri (Scottish Beer and Pub Association)
 - Dennis Williams
 - John Lee
 - Peter Swanson
 - James Nicholson

3. Police Scotland
 - Sgt John Young

4. Health, Education & Social Work
 - Jim Sherval

5. Young Persons
 - Jenna Kelly

6. Community/residents:
 - Penny Richardson (North rep.)
 - Vacant (East rep.)
 - Vacant (West rep.)
 - Norman Tinlin (South West rep.)
 - Bridget Stevens (additional)
 - Samuel Piacentini (City Centre/Leith rep.)
 - Robin Morris (South rep.)
 - Chris Wigglesworth (Friends of the Meadows (additional))

The 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 Executive Director of Place ('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 four Community Planning Areas (one for each area) and in addition one representative shall be appointed to represent Ward 11 (City Centre).

- South East
- South West
- North West
- North East
- Ward 11 (City Centre)

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

6.5 A Licensing Standards Officer, a person nominated by the Health Board, a representative nominated by the Chief Constable and a person nominated by the Chief Social Worker 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 Convenor 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.

11.2 Members should be open about their decisions and the reasons behind them.

11.3 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 – Forum members

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 from the Forum.

13 Attendance at Meetings – members of the public

13.1 Members of the public are welcome to attend Forum meetings, but are expected to sit at the side rather than in the body of Forum Members.

13.2 Should members of the public wish to speak at a Forum meeting then they should indicate notice of attendance a week before the meeting; and will be given a maximum of five minutes to address the Forum, or otherwise at the discretion of the Convener.

14 Resignation

14.1 Members wishing to resign may do so, in writing, to the Executive Director.

15 Alterations to Constitution and Powers to Make or Amend Rules

15.1 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

City of Edinburgh Licensing Forum

Constitution and Remit

City of Edinburgh Licensing Forum Constitution

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- 13 Resignation etc**
- 14 Alterations to Constitution and powers to make or amend rules**

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- 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.

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7

4 Terms of Reference of the Forum

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- 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.

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- Aged 18 years or above (with the exception of a member who is a 'young person')
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- South
- South West
- West
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- City Centre and Leith

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- 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.

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- 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.

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- 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.