

Governance, Risk and Best Value Committee

10.00am, Tuesday, 20 March 2018

Licensing Forum: Review of Constitution and Membership

Item number	7.10
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 is a separate legal entity from the Council and is not a Council committee. The Council has a legal duty to establish a Forum, to appoint the membership of the Forum and provide support and assistance as required.

This report sets out the current appointment process and proposes a timeline for a review of this process.

Licensing Forum: Review of Constitution and Membership

1. Recommendations

- 1.1 The Governance, Risk and Best Value Committee is asked to note:
 - 1.1.1 the information provided on the current appointment process; and
 - 1.1.2 that the process and constitution will be reviewed, with a revised process and constitution submitted to full Council for approval in June 2018.

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 it 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 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. 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.
- 2.5 The constitution of the forum was reviewed in 2017 and full Council agreed those changes in [November 2017](#).

3. Main report

Current Appointment process

- 3.1 Prior to the 2012 review of the Forum, there was no formal mechanism for selecting and appointing forum members. In practice membership was made of interested parties from both the community and the licensed trade who had made themselves known to Council officers or councillors. As the maximum number on the forum was 21 with four spaces for officers, the number of seats for the community and the trade were allocated equally at eight each to a total of 16. The remaining seat was allocated for a young person. Officers supporting the Forum have sought to ensure where possible that the balance between the licensed trade and the community representatives has been maintained.
- 3.2 Following the 2012 review, the then Director, who had delegated powers to appoint members of the forum, instructed Partnership and Information Managers within the Neighbourhood Structure of the Council to engage with Neighbourhood Partnerships and community groups in their respective areas to identify a community representative for each neighbourhood area. This equated to six members nominated in this way who were appointed by the Director. For the remaining two seats, the names of two further individuals had been put forward by Councillors and again the Director appointed those people directly.
- 3.3 Membership from the community has remained largely stable, where a vacancy occurred the same process was used to fill it. Members are asked to note that the constitution has always allowed other members of the community to attend and contribute, albeit on an ex-officio basis. It has been quite common for community councils to send a representative and contributions from such representatives are welcomed.
- 3.4 In respect of the licensed trade, membership continued to be appointed from volunteers who made themselves known to the Council or have been put forward by Councillors. Some of the members represent trade organisations who can in turn speak on behalf of larger membership for example the Scottish Beer and Pub Association. There have been no more than eight volunteers from the trade at any one time and therefore no formal selection process has taken place.
- 3.5 The current membership of the forum is included at appendix 1.

Review of Forum Membership Appointment Process

- 3.6 As requested by the Committee, it is the intention to review the current appointment process to ensure that it is transparent, fair and fully understood. A written process proposing how the Council could select and appoint members of the Forum, together with any further recommended changes to the Constitution, will be prepared and reported to Council for approval in June 2018. If Council approves the revised proposals, the current Forum will be disbanded and a full selection and appointment process will be undertaken later in the year.

- 3.7 It is proposed that the current Forum continues until the new process is approved to ensure that the work of the Licensing Board, in reviewing its Statement of Licensing Policy, is able to proceed timeously by allowing for the required statutory consultation process with the Forum.

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 Guidance will be sought from the Equalities Commission to ensure that best practice for appointing members of a public body is incorporated as appropriate within the revised selection and appointment process.

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 proposed changes to the Forum constitution and membership is will be undertaken following committee.

10. Background reading/external references

- 10.1 [Licensing \(Scotland\) Act 2005](#)

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11. Appendices

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))