

Our Forum's Constitution - copy attached

Thoughts for debate and comment please.

No guarantees that I have all the figures etc correct but I thought this note might help us focus our thoughts a bit

There is no term of office for anyone other than the Convenor who must be elected/re-elected at the first Forum mtg in any calendar year.

Forum memhrs are currently appointed by the Council (see para 6.5) for one year and thereafter for the duration of the Council

At the present time all current appointments will terminate with the end of the present Council which I believe is 3rd May 2012. In addition, being objective, there will be a material change of Board Membership after the next election and a lack of experience and continuity.

I suggest that there should be mechanism to try to retain at least some members of the Forum and also to be able to provide for turnover and the ability to regularly refresh a proportion of the Forum.

We have the ability to make proposals for change to the Council (see para 15.1) and if we can agree them I think we should try to do so ASAP for approval or otherwise.

I am told:-

1. That membership of the Forum may require to be extended to a wider audience so recruitment, really needs to centre on getting the forum to reflect what it is required to represent, for example there is no representative from the off sale sector, and representation in persons resident in the forums area is very restricted at present.
2. The membership needs to be widened to take in all aspects of the community, including the voluntary sector .
3. That trade representation may be seen as representing national bodies and that the forum is not a Local Licensing Forum.

Not an easy task!

Having regard to Schedule 2 Section 2 of the 2005 Act, and Alcohol etc Act –

In appointing members to the Forum, the Council must seek to ensure as far as possible that the membership of the Forum is representative of the interests of persons or descriptions of person who have a general interest in the undernoted areas:-

Holders of premises licences and personal licences

The Chief Constable

Persons having functions relating to health, education or social work

Young people

Persons resident within the Forum's area

The police, LSO young people and now the NHS are there of right. The constitution requires to be tweaked to reflect the new statutory basis of NHS involvement.

Out of a **maximum membership of 21** it seems to me having regard to the wording of the Schedule that we currently require (see para 6) a minimum of: -

- 4 Police, LSO, NHS, Young People** * (we have 4)
- 6 Residents - one from each Constituency** ** (we have 4 with 2 vacancies - not sure which Constituencies are represented by whom)
 - Edinburgh East
 - Edinburgh North and Leith
 - Edinburgh South
 - Edinburgh South West
 - Edinburgh West
- 2 Persons having functions relating to health, education or social work** (we now have 2 with 2 vacancies)
- 2 Holders of premises licences and personal licences - Trade** (we have 6)

That is 14 "must have" out of 21 spaces and the Council can decide how to allocate the rest.

I believe that there is a need to ensure some sort of continuity and indeed to retain experience on the Forum and to that end, and **to open debate**, I propose that the Forum discuss and consider making a request to the Council now to amend the Forum's Constitution to provide that membership of the Forum continues for the next Council year and runs along the current lines of membership, parallel to the 4 yearly Council elections and that 25% of the Forum members in the non statutory groups (perhaps spread evenly across each group) be required to retire from the Forum each Council year, the initial retirements over the first 4 years from May 2012 being by ballot.

I propose we recommend that the Convenorship should also run from the start of each Council year and not as at present from the first Forum meeting of the year.

The Council in the Constitution should have the ability to be flexible on membership to suit circumstances.

Re-election

Members should be eligible for re-election but for a maximum of two (or possibly 1 and ½ years) terms of office. (i.e. 8 or 6 years)

Replacement members

If someone retires or comes off the Forum then their replacements membership lifetime should replicate the member they are replacing.

Young People -representation.

Mike Baron is great, enthusiastic, has vast experience and is interested but he is not young and trying to involve another "young person" is, has been and will I think always be a struggle but some ideas may come out of the young person focus get together.

I am also advised that proposals for changing the membership on an annual basis whilst good in theory would place an added burden on staff resources and budgets, to undertake a recruitment of this level would require an annual public advertisement and a large allocation of resources which are not allocated or budgeted for at this time.

Generally Linda Bowie Senior Officer (Public Health & Licensing) advises: -

The two big cities seem to have the full complement of members and therefore a maximum term of office may be very useful in those areas.

"I don't think Glasgow and Edinburgh can be compared to the other areas. Most other Forums do not have the maximum of 20 (now increased to 21) members. In the smaller Board areas, some Forums have difficulty in attracting members, therefore a maximum term of office may not be advisable for them. Indeed, some are reducing the number of members to ensure that they achieve a quorum at meetings. Quite a lot of Forums have a constitution that has some sort of attendance requirement for members – normally if 2 or 3 consecutive meetings have been missed, without sending a substitute, then the member will be removed from the Forum.

As I said in my reply to Stephen's email yesterday, the legislation requires the Convener to be elected annually at the first calendar meeting of the Forum, but I am unaware of anything linking the appointment of all Forum members to Council elections. Whilst I can understand the sense in having the Forum and Board elections running in parallel, will that cause confusion with the annual election of the Convener?".

Non attendance at meetings

As regards questions raised at our meeting I note (see para 14) those that have not been at meetings for the past 6 months without excuse have, I believe, already stopped being members of the Forum but no doubt Steopehn will be able to clarify the position in regard to attendances etc.

Membership of the Forum

The law requires a Local Licensing Forum to have between 5 and 21 members. At least one Licensing Standards Officer for the area must be a member and there should be representatives of NHS, Licence holders, Police, Health, education or social work, Young people and Residents.

Resident appointments are based on one representative from each Edinburgh Scottish Parliamentary Constituency.

We presently have: -

Licence Holders and Persons with Relevant Interests (6) **

David A Gould
Rosaleen Harley
John Loudon (Convenor)
John G Murphy
Robert Orr
Bill Strachan

Health, Education & Social Work (4) but I think Jim now needs to be reallocated

Meichelle Walker
Jim Sherval (NHS statutory representative?) *
Alison McCallum

Residents (6) **

Sam Piacentini
Robin L Morris
Dennis Williams
John Clark
2 Vacancies

Lothian and Borders Police (1) *

Inspector Gordon Hunter

Licensing Standards Officer (1) *

Kenneth Fairgrieve

Young Persons Representatives (2) *

Michael Baron
Philippa Faulkner

*** Fixed by statute**

**** Fixed by Constitution**

| | Web Address | Page | Purposes | Member- ship | Minutes | Papers | Online Forum | Notes |
|-------------------------------|---|------|----------|-----------------|---------|--------|-----------------|---------------------------|
| Aberdeen City Council | http://committees.aberdeencity.gov.uk/mgCommittee | y | y | y | y | y | n | |
| Aberdeenshire Council | http://www.aberdeenshire.gov.uk/licensing/local_for | y | y | y | n | n | y | no activity on forum |
| Angus Council | http://www.angus.gov.uk/atoz/locallicensingforum.cl | y | y | y | y | n | n | minutes not up to date |
| Argyll and Bute Council | http://www.argyll-bute.gov.uk/moderngov/mgComm | y | y | y | y | y | n | |
| Clackmannanshire Council | http://www.clacksweb.org.uk/regulation/licensingfor | y | y | y | n | n | n | |
| Dumfries and Galloway Council | | n | n | n | n | n | n | |
| Dundee City Council | http://www.dundeeecity.gov.uk/supportservs/licensing | y | y | y | y | n | n | minutes accessed by p |
| East Ayrshire Council | http://www.east-ayrshire.gov.uk/item_detail.asp?UII | y | y | n | n | n | n | |
| East Dunbartonshire Council | http://www.eastdunbarton.gov.uk/default.aspx?page | y | y | y | y | p | n | |
| East Lothian District Council | | n | n | n | n | n | n | |
| East Renfrewshire Council | http://www.eastrenfrewshire.gov.uk/lforum_10_06_1 | n | n | n | y | n | n | |
| Edinburgh City Council | http://www.edinburgh.gov.uk/info/1126/alcohol_licen | y | y | y | n | n | n | |
| Falkirk Council | http://www.falkirk.gov.uk/services/development/con | y | y | n | n | n | n | |
| Fife Council | http://www.fifedirect.org.uk/orgs/index.cfm?fuseacti | y | y | n | n | n | n | |
| Glasgow City Council | | n | n | n | n | n | n | |
| Highland Council | http://www.highland.gov.uk/businessinformation/lice | y | y | y | n | n | n | full contact info for mer |
| Inverclyde Council | | n | n | n | n | n | n | |
| Midlothian Council | | n | n | n | n | n | n | |
| Moray Council | http://www.moray.gov.uk/moray_standard/page_52 | y | y | y | y | n | y | |
| North Ayrshire Council | http://www.north-ayrshire.gov.uk/LawAndLicensing/ | y | y | n | y | n | n | |
| North Lanarkshire Council | http://www.northlanarkshire.gov.uk/index.aspx?artic | y | y | y | n | n | n | |
| Orkney Islands Council | http://www.orkney.gov.uk/ngcontent.cfm?a_id=1374 | y | y | y | y | n | n | not up to date |
| Perth and Kinross Council | | n | n | n | n | n | n | |
| Renfrewshire Council | http://www.renfrewshire.gov.uk/ilwwcm/publishing.n | y | y | y | y | n | n | not up to date |
| Scottish Borders Council | | n | n | n | n | n | n | |
| Shetland Islands Council | | n | n | n | n | n | n | |
| South Ayrshire Council | http://www.south-ayrshire.gov.uk/licensing/forum.as | y | y | y | y | n | n | |
| South Lanarkshire Council | http://www.southlanarkshire.gov.uk/info/1126/licenc | y | y | y | n | n | n | more than one forum |
| Stirling Council | | n | n | n | n | n | n | |
| West Dunbartonshire Council | http://www.wdcweb.info/law-and-licensing/licensing | y | n | n | y | n | n | |
| West Lothian Council | http://www.westlothian.gov.uk/law-licensing/licence | y | y | n | y | n | n | work plan |
| Western Isles Council | | n | n | n | n | n | n | |

Paragraph

Numbers

Michael Baron's comments on John Louden's Notes

Having been on the old forum before the 2005 Licensing Act changes, I feel that some of the changes as a result of this Act have not been helpful in Edinburgh. This is ironic since Edinburgh was one of the authorities that pioneered a Licensing forum!

Administration

Prior to the 2005 Licensing Act, the forum was serviced by staff from the Licensing Department. They understood what the forum was about and were able to feed in their knowledge about what was going on in the licensing area and support the work of the forum. Following the Act, the administration was taken over by the Central Administration of the Council. My impression is that we are as strange to them as they are to us. I assume they are used to dealing with committees of councillors who serve statutory functions, rather than the rag tag group of volunteers that we are who have a purely advisory role. A real cultural mismatch has resulted. This has affected the way meetings are organised, what has been discussed and budgets. I believe it has been suggested that administration of the committee move back to Licensing. I think that this would lead to an improvement.

Make-Up

The statutory requirements are not helpful in recruiting a group that represents the variety of interests in cities such as Edinburgh and Glasgow. Given the (somewhat bizarre) restrictions, I think that the balance of membership at present is about right.

With regard to the young person Reps, I think this is always going to be difficult. It is unlikely that a young person could be found who would be able to give a long term (2 year +) commitment. Finding someone for one year has proved difficult. I think one of the sabbatical officers in the Edinburgh HE and FE colleges would be the most likely. I think that one of the appointees should be someone who works to support and encourage young person's representation. I know of at least two other forums where a Student Union staff member has been recruited to fill one of these posts.

I would suggest that the Forum be allowed to co-opt non voting members. This would allow it to bring in people in areas where there is underrepresentation (such as off sales at present) or who have specific expertise or experience (if the new forum contained a large number of members without previous experience, for instance).

Terms of Office

Contributing constructively to the Forum can be quite hard. It is difficult to understand what it is about, and what can be done. As it only meets four times a year, it is difficult to get to know the people on it. I would suggest that the ideal membership term is three years (approx 12 meetings), with people being allowed to serve a maximum term of two terms, six years. (This would not apply to some of the statutory members such as the Police and the Licensing Officers.)

In theory, this could mean that after three or six years there is major change in personnel. To avoid this, I would suggest that if a member leaves, their replacement should start a three year term. It is

likely that over a few years there will be enough continuity and turn over to keep the work going and providing fresh faces.

I see no need for the Forum terms of office to be in step with the Council elections. The committee is not political either in terms of appointment or operation.

Recruitment

While the Council is responsible for *appointment* of members, I see no reason why the Forum itself should not be involved in the recruitment of members, particularly where a casual vacancy arises. This is essentially how Philippa was recruited. Through the membership we have contacts in the community, the trade and health and education and are aware of the interests and knowledge that are underrepresented.

With regard to the recruitment that will take place after the Council elections, it is important that it is not seen as a mechanistic process. A balance of experience, knowledge and willingness to contribute must be maintained. This cannot be done in isolation. I suggest that the outgoing Chair be involved with the selection process.



City of Edinburgh Licensing Forum

Constitution and Remit

City of Edinburgh Licensing Forum

Constitution

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1 Title

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, 11 and Schedule 2 of the Licensing (Scotland) Act 2005. It is the role of the Forum to keep under review the operation of the licensing regime and the exercise of licensing powers in the Edinburgh area and to give advice and recommendations to the City of Edinburgh Licensing Board.

2.2 This document sets out the Forum's constitution and incorporates the Code of Practice for Forum members.

3 Definitions

3.1 "Act" in this constitution means the Licensing (Scotland) Act 2005.

3.2 "The City of Edinburgh Licensing Forum" or "Forum" means that body established by the City of Edinburgh Council in accordance with Section 10 of the Licensing (Scotland) Act 2005.

3.3 "Licensing Board" or "the Board" means the City of Edinburgh Licensing Board.

3.4 "Licensing Standards Officer" means a person employed by the City of Edinburgh Council and qualified as required by the provisions of the Licensing (Scotland) Act 2005.

3.5 "Edinburgh" means that area administered by the City of Edinburgh Council incorporated under the Local Government Etc (Scotland) Act 1994

4 Terms of Reference

4.1 The terms of reference of the Forum are as follows:-

- 1) to keep the liquor licensing system in the City of Edinburgh Council area under regular review and to respond to consultation exercises undertaken by the Licensing Board and the Scottish Executive as appropriate;
- 2) to consider the implications of relevant local data and statistics;
- 3) to meet the City of Edinburgh Licensing Board at least once per year; and
- 4) to give advice and make recommendations to the City of Edinburgh Licensing Board in relation to any matters as the Forum considers appropriate, excepting individual licensing applications.

5 Functions

- 5.1 The Forum will keep under 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 City of Edinburgh Licensing Board in relation to any matters of policy and other areas of concern that the Forum considers appropriate.
- 5.3 The Forum cannot review, give advice concerning, or make recommendations in relation to, the exercise of the Board's powers in any particular case or regarding the Board's consideration of any individual application.¹
- 5.4 Forum members will take all reasonable steps to encourage people to make their views known to the Forum.

¹ Section 11(2) Licensing (Scotland) Act 2005

- 5.5 Members of the Forum are appointed to represent the views of organisations and the citizenry of the Edinburgh Council area. It is inappropriate for any member to use the Forum to pursue their own interests or resolve personal issues. Unless they have been specifically appointed to represent that organisation, members of the Forum are not to express or promote the views of any organisation of which they are also a member.
- 5.6 The Forum is entitled, on request, to be provided with copies of any statistical information provided to the Licensing Board for the purpose of preparing a licensing policy statement or supplementary statement.

6 Membership

- 6.1 The membership will never be less than 5 or more than 20. The number of members will be subject to review by the City of Edinburgh Council on the application of the Forum, the Licensing Board or the Council's Director of Corporate Services.
- 6.2 In order to be eligible for membership of the Forum, a person must be:-
- a) aged 18 years or above (with the exception of representatives of young people who must be 16 years or over)
 - b) able to demonstrate an interest in the licensing system;
 - c) currently employed in or be a duly appointed representative of one or more of the following groups, namely:-

Persons resident within the City of Edinburgh Council area

Holders of premises licences and personal licences

The Chief Constable of Lothian and Borders Police

Persons having functions relating to health, education or social work.

Young people

- 6.3 Six representatives of residents will be appointed to represent each of the Edinburgh Scottish Parliamentary constituencies.
- 6.5 Where there is a gap in representation of one of the above groups, representative organisations may be approached to nominate a suitable person.
- 6.6 A Licensing Standards Officer will be appointed as a statutory member of the Forum.
- 6.5 Except in respect of the Licensing Standards Officer, members will be appointed initially for a period of 1 year and thereafter for the duration of the Council.
- 6.7 Any gaps in the membership of the Forum will be filled with reference to the same criteria in 6.2 and 6.3.
- 6.8 Members are expected to make every effort to attend meetings. However, should they be unable to attend they should intimate their apologies to the Council Secretary prior to the meeting. The member may nominate a substitute to take their place and express their views. The substitute must be eligible for the same category of membership as the substantive member.
- 6.9 The City of Edinburgh Council will provide facilities to assist the Forum in carrying out its duties. 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. Reimbursement of all costs incurred by the Council will be made from the Forum's budget.

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 put themselves forward for

election as convener. The convener shall 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 regulate the discussion so that everyone has a chance to speak while ensuring that all agenda items are discussed in the allotted time. It is part of the convener's role to prevent an individual from dominating the discussion and to encourage more reticent members of the Forum to speak up.
- 7.4 If the convener is unable to attend a meeting of the Forum he or she must intimate his or her apologies to the Council Secretary. The convener may nominate a substitute to attend in their place and express their views. The Forum should nominate one of the usual members to chair that meeting.

8 Meetings

- 8.1 The Forum will have a minimum of four meetings per calendar year.
- 8.2 The Forum will meet with the Licensing Board at least once in each calendar year.
- 8.3 All Forum meetings will be held in public and will be open to the press.
- 8.4 Meetings should be fixed by the Forum in consultation with the City of Edinburgh Council in order to ensure that appropriate facilities are available.
- 8.5 Intimation of the date and time of meetings, the agenda and any connected papers will normally be issued to the Forum members by the Council Secretary not less than seven days before the date of the meeting.

- 8.6 The Council Secretary will ensure that public notice of meetings is displayed at the City Chambers, High Street, Edinburgh.
- 8.7 The quorum for any meeting of the Forum is 10. The proceedings will not be invalidated by any vacancy in the membership.
- 8.8 If a quorum is not present ten minutes after the meeting is due to start the meeting must be adjourned and rescheduled for a date to be agreed by the Convener in consultation with the Council Secretary. It will be recorded in the minute that the meeting was adjourned and no business was transacted due to the lack of the necessary quorum.
- 8.9 The Order of Business for the agenda for the meeting shall be as follows
- 1) Order of Business
 - 2) Minutes of previous meeting and of any special meeting held since then
 - 3) Items of business as detailed in the agenda
 - 4) Items of business that the Convener has agreed be accepted for consideration as matters of urgency
- 8.10 All members may put forward suggestions for agenda items. The Convener is responsible for establishing a mechanism whereby members may submit items for discussion.
- 8.11 The Council Secretary shall keep a minute of every meeting of the Forum. These minutes should include;
- The names of members in attendance;
- A brief note of topics dealt with;
- A record of all decisions taken by the Forum.
- 8.12 Minutes of the previous meeting shall be submitted for approval as a correct record at the next meeting.

9 Method of Voting

- 9.1 In making any decision the Forum may vote upon a proposal. Each member of the Forum, or their substitute, will have one vote, with the Convener having a casting vote in the event of a tie. Voting will usually be by show of hands. The Forum may use a secret ballot where it decides this is more appropriate. The secret ballot should only be used in exceptional circumstances.
- 9.2 All motions and amendments will be required to be moved and seconded. If no amendment is brought forward in response to a motion, the motion will be the decision of the Forum
- 9.3 The mover of a motion or amendment may, with the consent of the seconder, modify or withdraw their motion or amendment
- 9.4 Each member of the Forum may only move or second one motion or amendment at a time
- 9.5 Motions and amendments moved but not seconded will not be put to the meeting or recorded in the minutes
- 9.6 Movers of motions or amendments not seconded may request that their dissent be recorded in the minutes

10 Special Meetings

- 10.1 A Special Meeting of the Forum can be called at any time by the Convener or by requisition of not less than eight members of the Forum. A request to hold a Special Meeting will be in writing. The Convener, in consultation with the Council Secretary, will determine the date and place of the Special Meeting.

11 Conduct of members.

- 11.1 Members must respect all other members of the Forum, members of the Licensing Board and all City of Edinburgh Council employees and the role each plays, treating them

with courtesy at all times. Members should also be courteous to any members of the public or press present during Forum meetings.

- 11.2 All members must comply with rulings from the Convener in the conduct of the business of the Forum.
- 11.3 Members should strive to be open about their decisions, giving reasons for those decisions.
- 11.4 Members are accountable for the Forum's decisions and actions to the public. They have a duty to consider issues on their merits, taking account of the views of all the members and must ensure that the advice given or recommendations made reflect the views of the whole Forum in so far as is possible.
- 11.5 As a representative nominated as a member/substitute member of the City of Edinburgh Licensing Forum members must understand the importance of high standards of conduct in the performance of their responsibilities.
- 11.6 In accepting the appointment they must agree to observe the Key Principles and standards of General Conduct prescribed in the Councillors' Code of Conduct and to register and declare any interests, as required.

12 Offensive or Obstructive Conduct by Members

- 12.1 If any member of the meeting disregards the authority of the Convener, or behaves obstructively or offensively, a motion may then be proposed and seconded to suspend the member for the rest of the meeting. The motion will be put without discussion

13 Resignation and Dismissal

- 13.1 Members wishing to resign their appointment may do so in writing, to the Council Secretary.
- 13.2 Where it is put to the Forum that one of its members has acted contrary to the provisions of this constitution, or in such a manner so as to bring the Forum into disrepute, the Forum

may by majority vote recommend dismissal of that member to the City of Edinburgh Council.

13.3 In voting on a motion to recommend dismissal of a member, each member of the Forum will have one vote with the Convener having a casting vote in the event of a tie. Where it is the Convener who is the subject of the vote, the Forum should agree a substitute for the purposes of this vote. The Forum should use the secret ballot procedure for these votes.

13.4 Where the Council agrees to dismiss a member that member will immediately lose the right to attend Forum meetings except when attending as a member of the public.

14 Failing to Attending Meetings

14.1 If a member does not attend any meetings of the Forum, for 6 months, the Council Secretary must tell the Forum (unless the member has been granted leave of absence by the Forum).

14.2 The Forum will consider whether the absence was caused by some reason approved by them. If they are not satisfied about the cause of the failure, the member will stop being a member of the Forum.

15 Alterations to Constitution and Powers to Make or Amend Rules

15.1 The Forum at anytime may submit a report to the City of Edinburgh Council to amend the constitution of the Forum or to make or amend rules relating to the conduct and administration of the Forum at any of its meetings or at a Special Meeting convened for such purpose, provided that due intimation of the proposed alteration shall have been sent to each member at least seven days before the meeting. All alterations require to be approved by a two-thirds majority of those present and voting. The Forum shall not be permitted to alter the Constitution if such alteration would conflict with the terms of the Act.