

**10.00am, Thursday, 23 November 2017**

## **Licensing (Scotland) Act 2005 - Reappointment of the City of Edinburgh Licensing Forum and Revised Constitution**

<b>Item number</b>	8.4
<b>Report number</b>	
<b>Executive/routine</b>	Executive
<b>Wards</b>	All
<b>Council Commitments</b>	

### **Executive Summary**

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This report provides a proposed revised structure for City of Edinburgh Licensing Forum and proposes a method for the appointment of members.

The report also requests approval for an amended Constitution for City of Edinburgh Licensing Forum.

## Licensing (Scotland) Act 2005 - Reappointment of the City of Edinburgh Licensing Forum and Revised Constitution

### 1. Recommendations

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- 1.1 It is recommended that the Committee:
- 1.1.1 agrees the revised membership of the City of Edinburgh Licensing Forum as set out at Appendix 1;
  - 1.1.2 agrees to the reappointment of any existing member of the Forum, where appropriate, should they wish to volunteer; and notes that the Executive Director of Place has delegated authority to appoint any remaining members; and
  - 1.1.3 approves the amended City of Edinburgh Licensing Forum Constitution as set out in Appendix 2.

### 2. Background

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- 2.1 The Council is required to appoint members to the City of Edinburgh Licensing Forum ('the 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 Council's 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 Licensing Board on the exercise of its functions and the operation of the Act.
- 2.3 Members are appointed by the Council and membership is composed of interested volunteers.

### **3. Main report**

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- 3.1 It is proposed that the Forum continues to 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. Previously this was achieved by including a resident from each of the six Neighbourhood Areas. This no longer reflects the structure of the Council or revised community planning arrangements. The proposed revised composition of the Forum is detailed in Appendix 1
- 3.2 For community representatives, local community planning structures will be asked to nominate or re-nominate resident members of the forum. Existing community representatives will be asked to continue temporarily until Council has agreed any revision to community engagement structures. For the remaining membership, 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. Any remaining places would be advertised and these would require to be considered in line with the proposed membership composition.
- 3.3 If Council approves the proposed Forum membership composition the Executive Director of Place has already been delegated to make these appointments in consultation with the Convener of the Forum.
- 3.4 Minor changes to the Constitution are proposed (Appendix 2) principally to reflect the membership changes and to clarify a few procedural points raised by the existing forum.
- 3.5 The Forum is an important body, which will be heavily involved when the Licensing Board consults on its next statement of Licensing Policy within the next 12 months. It is intended to provide the members of the newly appointed Forum with training to assist them in making the most of their role.

### **4. Measures of success**

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- 4.1 That the Forum is fully functioning and reflects a wide range of interests, including the community and the licensed trade.

### **5. Financial impact**

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- 5.1 There is no direct financial impact on the Council. All costs are contained within existing budgets.

### **6. Risk, policy, compliance and governance impact**

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- 6.1 Should the Forum not be in place, the Licensing Board may be restricted in its ability to review its statement of licensing policy.

## **7. Equalities impact**

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7.1 There is no equalities impact arising from the contents of this report.

## **8. Sustainability impact**

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8.1 There is no environmental impact arising from the contents of this report.

## **9. Consultation and engagement**

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9.1 There has been a meeting with the existing Forum, and consultation with Edinburgh Association of Community Councils

## **10. Background reading/external references**

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10.1 [Licensing Scotland Act 2005 – Reappointment of the City of Edinburgh Licensing Forum and Revised Constitution – September 2012](#)

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## **11. Appendices**

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Appendix 1 – Proposed membership composition

Appendix 2 – Proposed Constitution

## **Appendix 1**

### **Proposed Membership Composition**

1. Six places shall be reserved for residents' representatives. Four of these shall be reserved for community representatives from each of the four localities (North East, North West, South East and South West). Additionally, one place shall be reserved for a community representative from Ward 11 (City Centre), and one place for a member from Edinburgh Association of Community Councils.
2. A Licensing Standards Officer nominated by the Regulatory Services Manager.
3. A nominee of NHS Lothian.
4. The Chief Constable or their representative.
5. A nominee of the City of Edinburgh Council's Chief Social Work Officer.
6. A nominee of the City of Edinburgh Council's Executive Director of Communities and Families (for Education).
7. A minimum of six places shall be reserved for holders of premises or personal licences.
8. 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]

# **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 Government.

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). In addition one representative shall be appointed to represent Ward 11 (City Centre), and one to represent Edinburgh Association of Community Councils.

- 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 premises and individual 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 A nominee of the City of Edinburgh Council's Executive Director of Communities and Families will be appointed to represent Education.

6.7 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').

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

6.9 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.

6.10 Ex officio members: The Forum may invite other persons to attend and participate in meetings, should this be required. Any such invitation is at the discretion of the Convener. Any such person shall not be entitled to vote in any decision made by the Forum. Neither shall such a person be entitled to vote in choosing a Convener.

6.11 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 Council 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 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.

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.

## **8 Meetings**

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

8.2 The Forum will meet with the Board at least once in each Council 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.

9.2 Ex officio members have no voting rights.

9.3 Where the Forum agrees to make a recommendation to the Board, the wording of the recommendation shall be recorded in the action note. The Convener shall thereafter ensure that it is communicated to the Clerk of the Licensing Board.

## **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.

11.4 The Forum is encouraged to produce an annual action plan setting out regular and short term pieces of work that it will undertake to monitor the licensing system. Any action plan will be discussed with the Board at its annual joint meeting.

## **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 to the Convener 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.