

THE HIGHLAND COUNCIL

5 September 2013

Agenda Item	18
Report No	HC/39/13

HIGHLAND LIQUOR LICENSING FORUM

Report by the Assistant Chief Executive

Summary

This report sets out the establishment of Highland Liquor Licensing Forum and recommends the approval of proposed amendments which would

- (a) delegate authority to the Head of Legal and Democratic Services to grant or refuse applications to join the Forum
- (b) bring the term of appointment of Forum members into line with local government elections
- (c) enable resident members and trade members of the Forum to be paid travel expenses for attending Forum meetings
- (d) delegate authority to the Head of Legal and Democratic Services to work with Forum members to resolve any issues arising in connection with the operation of the Forum including updating the Code of Conduct for Forum members, and any issues which may arise in relation to Forum members' conduct.

1 Introduction

- 1.1 The Highland Council is obliged in terms of the Licensing (Scotland) Act 2005 to appoint a Licensing Forum which must have no fewer than five and no more than twenty one members. The general function of the Licensing Forum is to keep under review the operation of the Licensing Act and in particular the exercise by the Licensing Board of their functions. The Forum can also give advice and make recommendations to the Licensing Board although it is not permitted to give advice or make recommendations on individual cases.
- 1.2 In appointing Forum members, the Council must ensure that a licensing standards officer and a local health representative are included in the members. The Council must also seek to ensure that as far as possible the membership is representative of the interests of persons who have an interest in the Forum's general functions and that these members include licence holders, a representative from the Police, persons involved in education or social work, young people and residents of the Forum's area.
- 1.3 At its meeting on 31st May 2007 the Council agreed to establish a Forum, meeting on a peripatetic basis and that membership be as follows:
 - three representatives from the licensed trade specifically from the on-sales, off-sales and late night sector
 - a representative from the Police
 - the Director of Education, Culture and Sport or his representative
 - Director of Social Work or her representative
 - A young person from local Education College
 - Two local persons to be nominated by the Local Association of Community Councils

- Two members of Highland Drugs and Action Alcohol Team
- A physician from the Accident and Emergency Ward of the hospital
- One licensing board member

It was also agreed in 2007 that the Clerk to the Licensing Board have delegated authority to appoint Forum members in accordance with the proposals outlined in the report.

2 Current Forum Membership

2.1 Following the 2007 meeting it was agreed that due to a conflict of interest it would be inappropriate for a licensing board member to sit on the Forum. A board member has never sat on the Forum. A number of expressions of interest in joining the Forum were received at the outset and the Forum was established.

2.2 There is a standing invitation on the Council website to members of the public to make application to join the Forum. Over the years there have inevitably been some changes in membership as new people have applied to join and existing members have moved on. Applications are still granted or refused by the Clerk to the Board as agreed in 2007 although in practise the views of the Forum are taken into account in any decision.

2.3 The Forum membership now sits at 16 out of a possible 21 comprising -

- six representatives from the licensed trade including four premises licence holders (from Skye, Inverness, Rosemarkie and Fort William) covering on-sales, off-sales, hotel and late night sector; one personal licence holder who is also a licensed door steward, and the area representative of the Scottish Licensed Trade Association who is also a personal licence holder
- the licensing sergeant for Highland area representing Police Scotland
- a representative from the Fire & Rescue Service
- the Public Health Consultant
- a Council officer representing Integrated Children's Services
- the Council's Youth Convener
- two residents of Inverness, both Community Council members
- the Highland Alcohol and Drug Partnership Coordinator
- the Highland Violence Against Women Training and Development Manager
- a Licensing Standards Officer

Forum members are appointed indefinitely

The Forum has expressed a desire to attract more applications from individuals and community representatives around the Highland area.

2.4 The Clerk to the Board has expressed the view that due to a conflict of interest between the Board and the Forum it is not appropriate for him to appoint members to Highland Licensing Forum. It is therefore recommended that authority be delegated to the Head of Legal and Democratic Services taking into account the views of the Forum to appoint Forum members in future. It is also recommended that Forum members be appointed for a fixed term expiring at the next local government election. Retiring Forum members will be eligible for re-appointment.

3 Administration of the Forum

- 3.1 The Council is obliged in terms of the Act to provide the Forum with such staff, property and services as the Council considers are required for Forum purposes.
- 3.2 The Forum must meet four times per year and hold a joint meeting each year with the Licensing Board. The meetings must be held in public and the Forum agendas and minutes are published on the Council website. Meetings are held in Council Headquarters with access to telephone and video conference facilities.
- 3.3 The Forum is currently supported by the Council's Legal Manager – Projects who acts as Clerk and Legal Adviser to the Forum.
- 3.4 Currently, Forum members are not paid travel expenses. The view has been expressed from within the Forum that it may be easier to attract applications to join the Forum from around the Highlands if travel expenses are available to members.
- 3.5 Members are advised that if the Council agrees to pay travel expenses this could have an impact on the fees charged to licensees in the Board's area. While in terms of the Act it is for the Council to establish the Forum, in terms of the 2007 Fees Regulations when determining fees for any period the Licensing Board is to have regard to the desirability of ensuring that the total fees payable to the Board cover the expenses incurred by the Board and the Council for the Board area in administering the Act generally during that period.
- 3.6 A short survey of other Licensing Forums has disclosed that most other Councils for rural areas pay travel expenses to residents and licence holders who sit on Licensing Forums. It is therefore recommended that Council agree that Forum members who attend meetings as residents or as licence holders be entitled to claim travel expenses at the nationally agreed rates for councillors in carrying out their duties as Forum members on the understanding that claims will only be met on production of receipts. The Forum will continue to meet in venues which provide video conference facilities thus mitigating the cost increase by enabling members to take part in meetings without the requirement to travel.

The Forum's Code of Conduct also requires to be updated and it is recommended that authority be delegated to the Head of Legal and Democratic Services to work with the Forum to review and revise the Code of Conduct.

4 Implications

- 4.1 Resources – the Act requires the Council to support the Forum with appropriate staff or other resources; there will be a cost to the Council which will be contained within existing budgets.
- 4.2 Legal – there are no legal implications arising from this report as the Council is already fulfilling its legal duties by supporting the Forum and providing venues and video conference facilities for meetings.

- 4.3 Equality / Climate Change - There are no equalities or climate change implications arising from this report.
- 4.4 Other - The changes proposed by the report may make membership of the Forum more accessible to people living across the Highlands.

5. Recommendation

The Council is asked to:

6.1 **note** the establishment of Highland Licensing Forum which meets at least four times per year in Inverness

6.2 **agree** that authority be delegated to the Head of Legal and Democratic Services taking into account the terms of the legislation and the views of the Forum to appoint and re-appoint Forum members in future.

6.3 **agree** that Forum members be appointed for a fixed term expiring at the next local government election with retiring Forum members being eligible for re-appointment

6.4 **agree** that Forum members who attend meetings as residents or as licence holders be entitled to claim travel expenses at the nationally agreed rates for councillors in carrying out their duties as Forum members on the understanding that claims will only be met on production of receipts and

6.5 **agree** that authority be delegated to the Head of Legal and Democratic Services to work with Forum members to review and revise the Code of Conduct for Forum members

Designation: Assistant Chief Executive
Officer Reference: Stewart Fraser / Fiona Sinclair
Date: 2 July 2013

Background Papers: Licensing (Scotland) Act 2005