

ABERDEENSHIRE LICENSING BOARDS ***South, Central and North Divisions***

REPORT TO LICENSING BOARD HEARING – 6th December 2017, 13th
December 2017 and 20th December 2017

LICENSING (SCOTLAND) ACT 2005

CONSIDERATION OF OPTIONS FOR THE ABERDEENSHIRE LICENSING
FORUMS

1. Recommendations

- 1.1. It is recommended that the Board considers the terms of this report and determines whether to recommended Option A or Option B to Aberdeenshire Council.

2. Background

Purpose of Report

- 2.1 Aberdeenshire Council is seeking the views of the Aberdeenshire Licensing Boards in respect of options in relation to the Licensing Forums only, moving forward, prior to making a determination on the matter. This report does not relate to the Licensing Boards themselves. There are no plans currently in place to change the existing Licensing Board structure within Aberdeenshire.

Legal Duty to Appoint Forum

- 2.2 Section 10 of the Licensing (Scotland) Act 2005 [“the 2005 Act”] provides that each **Council** must establish a Local Licensing Forum for their area.
- 2.3 Where the area of a Council is divided into licensing divisions, the Council may, instead of establishing a Local Licensing Forum for their area, establish separate such Forums for each division.

Options

- 2.4 The appointment of the original Forums fell within the remit of the former Policy & Resources Committee of Aberdeenshire Council.

- 2.5 As per the requirements of Section 10 of the 2005 Act, Aberdeenshire Council has 2 options available, either:
- a. To continue with the 3 existing Divisional Forums to coincide with the areas covered by the 3 Divisional Licensing Boards; or
 - b. Disband the existing Forums and replace them with 1 new Licensing Forum for the entire Aberdeenshire area.
- 2.6 Full details of the options available to Aberdeenshire Council are outlined in Appendix 1 to this report.
- 2.7 Moving to 2 Divisional Forums is not an option for the Council as it does not comply with Section 10 of the 2005 Act given that there are 3 divisional Licensing Boards within Aberdeenshire.

Membership of Forum

- 2.8 In terms of Paragraph 2 of Schedule 2 of the 2005 Act, A Forum is to consist of such number (being not fewer than 5 and not more than 21) of members as the relevant Council may determine. This number can be altered by the Scottish Ministers.
- 2.9 At least one of the members must be a Licensing Standards Officer the Council's area.
- 2.10 At least one of the members must be a person nominated by –
- (a) The Health Board for the Forum's area, or
 - (b) If the Forum's area forms part of the area of more than one Health Board, the Health Board whose area contains the larger or, as the case may be, the largest part of the Forum's area.
- 2.11 In appointing members of a Forum, the relevant council must seek to ensure so far as possible that the membership of the Forum is representative of the interests of persons or description of persons who have an interest which is relevant to the Forum's general functions. Those persons include –
- (a) Holders of premises licences and personal licences
 - (b) The chief constable
 - (c) Persons having functions relating to health, education or social work
 - (d) Young people
 - (e) Persons resident within the Forum's area
- 2.12 The other members are to be individuals appointed by the relevant council on such terms and conditions as the relevant Council may determine.
- 2.13 A Council must provide each Forum established by them, or ensure each such Forum is provided, with such staff, property and services as the Council considers are required for the Forum's purposes.

Statutory Role of Forum

- 2.14 Section 11 of the 2005 Act provides that each Licensing Forum has the following general functions:-
- (a) Keeping under review –
 - (i) The operation of the 2005 Act in the Forum's area, and
 - (ii) In particular, the exercise by the relevant Licensing Board or Boards of their functions, and
 - (b) Giving such advice and making such recommendation to that or any of those Boards in relation to those matters as the Forum considers appropriate.
- 2.15 A Local Licensing Forum is not enabled to review or giving advice or make recommendations in relation to the exercise by a Licensing Board of their functions in relation to a particular case.
- 2.16 The 2005 Act defines "*relevant Licensing Board*" as either the Licensing Board for the Forum's area or, in the case of a Local Licensing Forum for a council area which is divided into licensing divisions, each of the Licensing Boards for those divisions.

Existing Position

- 2.17 The 2005 Act took effect from 1st September 2009. The Forums were therefore appointed during the transition period leading up to that date, primarily to carry out their functions in reviewing the terms of the Licensing Policy Statements drafted and adopted by the Boards during that time.
- 2.18 Nationally, Forums have struggled across Scotland since the implementation of the 2005 Act. The issues that the Government anticipated would involve and engage the Forums with Licensing Board have not materialised since the 2005 Act went live.
- 2.19 The 3 Forums initially worked well in Aberdeenshire. However, in recent years the Forums have struggled with membership, quorums for meetings and establishment and delivery of work through Action Plans.

Proposal for Change

- 2.20 The proposal to consider reviewing the current format of Licensing Forums within Aberdeenshire came from the Forums themselves.
- 2.21 The Forums met together at a joint discussion session in Woodhill House on 24th March 2017 to discuss the existing issues and obtain views as to whether the existing Forums should continue or whether one Forums would be more

beneficial for Aberdeenshire moving forward. At the meeting, the members present from the South and Central Forums were in favour of moving to one Forum whereas the North Forum was against moving to one Forum

- 2.22 The proposal to move to one Forum was then discussed at the next formal Meetings of each Divisional Forum. The views of the Forums are contained within the options set out at Appendix 1 to this report.

Members should note that the views of the Forums were determined at meetings held prior to the local government elections in May 2017. The previous Board Convenors would have been members of the Forums at that point in time and not the current Board Convenors.

- 2.23 Prior to presenting this report to Full Council, the views of the Divisional Licensing Boards appointed following the election in May 2017 are also sought on the options available to the Council. The views of the Boards will be contained within the options set out at Appendix 1 to the Report submitted to Aberdeenshire Council.

3. Governance

- 3.1. Aberdeenshire Council is seeking the views of the Boards which means this report can be considered by the Board at this meeting.

4. Implications and Risk

- 4.1. An Equality Impact Assessment is not needed in this case because the granting or refusing of the applications will not have a differential impact on the protected characteristics of the applicants or any third parties.
- 4.2. There are staffing and financial implications:
- if reducing the number of forums, less staff resources, less expenses, less time, positive impact in terms of the current strive to reduce spend
Consideration of the use of technology so that there is local input without the need to travel
 - If no change – no immediate staff or financial implications. However, officers will endeavour to consider how the existing Forums can work smarter, efficiently, effectively and in line with their constitution and statutory remit.
- 4.3. There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Licensing Board is considering the application as the Licensing Authority in a quasi-judicial role and must determine each application on its own merits in accordance with the legal tests set out in the relevant legislation.

- 4.4 The Town Centre Principle does not apply in respect of this matter as the Board is considering the applications as Licensing Authority in a quasi-judicial role and must determine the applications on their own merits in accordance with the legal tests set out in the relevant legislation.

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Clerk to the Board

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APPENDIX 1: Options

In terms of Section 10 of the 2005 Act, the Council has 2 options available, either:

- a. To continue with the 3 existing Divisional Forums to coincide with the areas covered by the 3 Divisional Licensing Boards; or
- b. Disband the existing Forums and replace them with 1 new Licensing Forum for the entire Aberdeenshire area.

OPTION A – CONTINUE WITH THE EXISTING DIVISIONAL LICENSING FORUMS

POSITIVES

- Alignment with the Licensing Board Divisional Areas therefore local to the area and meets within the Board Areas
- Each forum can hold their annual meeting with the corresponding divisional licensing board Each forum can hold their annual meeting with the corresponding divisional licensing board
- The Forums have voluntarily chosen not claim expenses since 2016

NEGATIVES

- Police, LSOS, Public Health have to send representatives to each Forum. This is resource intensive – also means that similar conversations with the same people across different area.
- Each forum has the same stakeholders, the same constitutions, same administrative procedures, same agendas, same discussions and similar decisions flowing out of meetings. The Forums are therefore highly repetitive.
- The number and location of meetings is resource intensive
- Membership Numbers are falling, particularly with young people and residents in the area
- Difficulty in sustaining membership as recruitment is difficult
- Lack of Focus within the existing Forums
- Lack of understanding of the remit of the Forum
- Not working in line with the approved Constitution
- No clear projects or Action Plans being delivered on
- Work requested of the Forums by the Boards has not been delivered
- Forums have not been monitoring the Boards in line with the statutory requirement to do so.
- Meetings frequently delayed or cancelled due to lack of numbers or quorum
- Disconnect between discussions at the Boards and holding the Boards to task in terms of delivery under their Policy Statements

OPTION B – TO ESTABLISH A NEW ABERDEENSHIRE LICENSING FORUM

POSITIVES

- Better time management
- Greater resource efficiency
- Less repetition of work

- Stronger voice to address issues across Aberdeenshire
- Greater influence with the Divisional Licensing Boards
- Potential to be more active and responsive
- Beneficial for Aberdeenshire as a whole
- Operation of the Forum will be strengthened
- One joint meeting between the Forum and the 3 Boards therefore reduction by 2/3rds in Board and Forum Meetings
- Fewer Forum Meetings – 4 & 1 Joint meeting with the Boards instead of 12 & 3 joint meetings with the Boards. Reducing meetings by 2/3rds.
- More focussed
- Will work in compliance with revised constitution
- Clear action plan and programme of projects
- Accountability of the Boards will be at the heart of the work of the Forums.
- Greater use of technology to ensure local representation on the Forum without the requirement for travel.
- Greater opportunity for collaborative working
- Ability to work smarter and more effectively to ensure the promotion of suitable and safe drinking environments within Aberdeenshire.

NEGATIVES

- Fear that one Forum will lose local dimensions and local insight
- Fear that one Forum will be driven by the major stakeholders to push their own agendas
- Fear that local representation will be in the minority and the Forum will lose its identity.
- Fear that one Forum will not be able to differentiate between different policies, approaches and issues arising in each Board Area.

FORUM VIEWS ON AVAILABLE OPTIONS

SOUTH FORUM **Discussion on 24th March 2017:** Those Members present were in favour of moving to one Forum for Aberdeenshire. As a secondary position, the Forum was in favour of combining the Central and South Forum in to one Forum and leaving the North Forum as is, thereby creating 2 Licensing Forums in Aberdeenshire.**

Meeting of 7th June 2017: The Formal View of the South Forum was that the Forum unanimously supported the proposal to move from three Forums to one Forum for Aberdeenshire.

CENTRAL FORUM **Discussion on 24th March 2017:** Those Members present were in favour of moving to one Forum for Aberdeenshire. As a secondary position, the Forum was in favour of combining the Central and South Forum in to one Forum and leaving the North Forum as is, thereby creating 2 Licensing Forums in Aberdeenshire.**

Meeting of 14th June 2017: the formal view of the Central Forum was that the Forum unanimously supported the proposal to move from three Forums to one Forum for Aberdeenshire.

NORTH FORUM **Discussion on 24th March 2017:** Those Members present were not in favour of moving to one Forum for Aberdeenshire.

Meeting of 26th April 2017: The formal view of the North Forum was not to support the proposal to move to one Forum for Aberdeenshire. The Decision was carried by 5 votes to 2.

It should be noted that the decisions of the Forums were all taken prior to the local government election in May 2017

** Two Forums are not an option for the Council in terms of Section 10 of the 2005 Act. The only options legally available to the Council are 1 Forum or 1 Forum for each divisional board area. As Aberdeenshire Council has 3 divisional board areas, that means 3 Divisional Forums and not 2 as a legal option.

BOARD VIEWS ON AVAILABLE OPTIONS

SOUTH BOARD **Meeting of 6th December 2017:**

CENTRAL BOARD **Meeting of 13th December 2017:**

NORTH BOARD **Meeting of 20th December 2017:**