

Midlothian Local Licensing Forum (LLF)

Terms of Reference and code of practice for Forum members

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1. Introduction

The Licensing (Scotland) Act 2005 requires every Council to establish a Local Licensing Forum for their area.

The Forums are independent from the Licensing Board and the members of the Forum have to be elected by the Council. The Council is required to provide administrative support to the Forum.

It is the role of the Forum to keep under review the operation of the licensing regime and the exercise of licensing powers in Midlothian and to give advice and recommendations to the Midlothian Licensing Board.

This Terms of Reference sets out how the Forum will operate. It also incorporates the Code of Practice for Forum members.

2. Definitions

“Act” in this Terms of Reference means the Licensing (Scotland) Act 2005.

“The Midlothian Licensing Forum” or “Forum” means that body established by Midlothian Council in accordance with Section 10 of the Licensing (Scotland) Act 2005.

“Licensing Board” or “the Board” means the Midlothian Licensing Board.

“Licensing Standards Officer” means a person employed by Midlothian Council and qualified as required by the provisions of the Licensing (Scotland) Act 2005.

“Midlothian” means that area administered by Midlothian Council incorporated under the Local Government Etc (Scotland) Act 1994

3. Objectives

The Forum will identify key issues affecting licensing in Midlothian and will develop and deliver constructive advice and recommendations on how to address these.

The Forum will establish an identity that is clearly separate from the Licensing Board. The Forum will strive to build trust with license holders and the Licensing Board by giving impartial and effective advice and practical recommendations to the Board.

The Licensing (Scotland) Act 2005 lists the licensing objectives as;

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

The Licensing Board is required to promote these objectives through their policies and decisions. The Forum will be consulted by the Licensing Board when it formulates or reviews Licensing Board Policy statements.

4. Functions

The Local Licensing Forum has the following general functions—

(a) keeping under review the operation of the Licensing (Scotland) Act 2005 in the Forum's area; and in particular, the exercise by the Midlothian Licensing Board of its functions, and

(b) giving such advice and making such recommendations to the Midlothian Licensing Board in relation to those matters as the Forum considers appropriate.

(Note: The Local Licensing Forum cannot review, or give advice, or make recommendations, in relation to the exercise by a Licensing Board of their functions in relation to a particular case.)

5. Membership

Forum membership should consist of between 5 and 21 persons as determined by the Council from the following categories

- Holders of premises licenses and personal licenses
- A Licensing Standards Officer
- The Chief Constable for the Forum's area
- Persons having functions relating to health, education or social work
- Young people
- Persons resident within the Forum's area

In order to be eligible for membership of the Forum, a person must be:-

- a) able to demonstrate an interest in the licensing system;
- b) currently employed in or be a duly appointed representative of one or more of the above groups

Where there is a gap in representation of one of the above groups representative organisations may be approached to nominate a suitable person.

6. Convener

As laid out in Schedule 2 of the Licensing (Scotland) Act 2005, Forum Members will elect a Convener at their first meeting in each calendar year.

The Convener holds office until the next election.

Meetings of the Forum are to be chaired by the Convener.

If the office of the Convener is vacant or for any reason unable to act, a meeting of the Forum may be chaired by any other Member present.

The names of those present at each meeting, as well as those who have submitted apologies will be recorded and minutes produced of each meeting. The minutes will include a brief note of topics dealt with and a record of all decisions taken by the

forum. This information will be lodged with the local authority and circulated to each member prior to the following meeting.

Previous minutes will be approved at the next meeting and before concluding the agenda discussed for next meeting.

The Convener has the responsibility for ensuring that meetings are conducted in an orderly fashion and for making sure that **all** Members are involved in discussions.

7. Meetings & Special Meetings

As laid out in the Licensing (Scotland) Act 2005, there shall be 4 meetings of the Local Licensing Forum plus an additional meeting with the Licensing Board per calendar year.

Notice of the place, date and time of a meeting of the Forum will normally be given to every member at least five days and in any event not less than 3 clear days before the meeting.

Notice of meeting will include: the date, time & place of the meeting, information on availability of agenda and accompanying reports etc.

Meetings will be fixed by the Forum, in consultation with the Clerk so as to ensure that appropriate support was available.

Forum members unable to attend any meeting should intimate their apologies to the Convener /Clerk prior to that meeting. Any member unable to attend in person may appoint a substitute who can express their views to attend on their behalf.

All members may put forward suggestions for agenda items. The Convenor is responsible for establishing a mechanism whereby members may table items for discussion.

Special meetings

A Special Meeting of the Forum can be called at any time by the Convener or by requisition of a majority of the members of the Forum. Such a request to hold a Special Meeting will be in writing and the Convenor will determine the date and place of the Special Meeting.

Quorum

The quorum for a meeting of a Forum is one half of the number of members (but in any case not fewer than 3). No business will be conducted at any meeting unless that meeting is quorate.

If after 10 minutes from the appointed start time for a meeting a quorum is not present, the Convener will adjourn the meeting to a time her or she may then or afterwards fix in discussion with the Clerk. It should be recorded that owing to a lack of the necessary quorum no business could be transacted.

Press/Public

Members of the press and public will be entitled to attend Local Licensing Forum Meetings.

Voting

All decisions arising before the Forum shall be decided by a majority of the Members present and voting thereon. The numbers voting for and against any motion will be recorded in the Minute. In the case of an equality of votes, the person presiding at the meeting shall have a casting vote. Voting shall normally be by a show of hands. If the meeting so decide, voting shall be by ballot which shall be undertaken by the Convener to ensure secrecy of the vote. A decision to proceed by ballot shall require a majority of those Members present and voting before the ballot

8. Conduct of Members and attendance at meetings

Members are expected to make every effort to attend meetings. However, should they be unable to attend they should intimate their apologies to the Convenor prior to the meeting. The member may nominate a substitute to take their place and express their views. Members who fail to attend 3 consecutive meetings without good reason will be automatically removed from the list of members.

Members must respect all other members of the Forum, members of the Licensing Board and all Midlothian 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.

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.

Resignation and Dismissal

Members wishing to resign their appointment may do so in writing, giving four weeks notice, to the Clerk of the Forum and to the Convenor.

Where it is put to the Forum that one of their members has acted contrary to the provisions of the Terms of Reference and code of practice for Forum members, or in such a manner so as to bring the Forum into disrepute, they may by majority vote recommend dismissal of that member to Midlothian Council.

In voting regarding the recommendation of dismissal of a member, each member of the Forum will have one vote with the Convenor having a casting vote in the event of a tie. Where it is the Convenor 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.

Where the Forum agrees to dismiss a member that member will immediately lose the right to attend Forum meetings except where attending as a member of the public. The Convenor should inform the Clerk of the Forum of the decision as soon as practicable.

9. Alterations to Constitution and or amendments to rules

The Forum shall have the power to alter the Terms of Reference and code of practice for forum members and 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 due intimation of such proposed alteration shall have been sent to each member at least fourteen days before such meeting. All such alterations require to be approved by a two-thirds majority of those present and voting. The Forum shall not be permitted to alter the Terms of Reference and code of practice for forum members if such alteration would conflict with the terms of the Act.

10. Contact details

Rosie Kendall, Community Safety Manager
Clerk to the Forum