

EAST AYRSHIRE COUNCIL

21 JUNE 2007

THE EAST AYRSHIRE LOCAL LICENSING FORUM

Report by Solicitor to the Council/Clerk to the Licensing Board

1. PURPOSE OF REPORT

- 1.1** To apprise Members of the legal requirements incumbent upon East Ayrshire Council in relation to the establishment of a Local Licensing Forum ("Forum") by virtue of the relevant provisions of the Licensing (Scotland) Act 2005, to provide background information as to the membership and functions of the Forum and to seek to have the appropriate number of members appointed to serve on the Forum.

2. BACKGROUND

- 2.1** In terms of sections 10-13 and schedule 2 of the Licensing (Scotland) Act 2005, East Ayrshire Council is required for the first time to formally establish a Local Licensing Forum for the East Ayrshire area. Although the Act does not fully come into force until 1 September 2009, there are a range of preliminary transitional matters which require to be initiated well in advance of this date to which the Forum's input is legally required. It is therefore appropriate that the establishment of the Forum takes place at this stage.
- 2.2** The Forum will have the general function of keeping under review the operation of the Licensing (Scotland) Act 2005 within the East Ayrshire area and, in particular, the exercise by East Ayrshire Licensing Board of its statutory functions. In addition, the Forum is entitled to give advice and make recommendations to the Licensing Board in relation to any matter or issue which the Forum deems to be appropriate. However, it must be stressed that these general functions do not enable or permit the Forum to either review, give advice to or make recommendations to the Licensing Board in the exercise of its functions in relation to a particular case.
- 2.3** From a Licensing Board perspective, in exercising any function under the Act, the Board is required to have regard to any advice given or recommendation made in relation to that function by the Forum. If the Board decides not to follow any such advice or recommendation it is then required to give the Forum reasons for such a decision.
- 2.4** In terms of the Act, East Ayrshire Council is required to provide the Forum with such administrative support as the Council considers is required for the Forum's purposes. At this stage, it is intended that

such administrative support will be provided by existing Licensing Board staff at least for the initial development phase of the Forum.

3. RECRUITMENT AND MEMBERSHIP OF THE FORUM

- 3.1** The Forum must consist of such number of members (being not fewer than 5 and not more than 20) as the Council may determine. The membership is also required to include the Council's Licensing Standards Officers who, although structurally approved in terms of the Council's governance procedures on such matters, have still to be recruited. It is also recommended that one member of the Forum should also be a member of the Licensing Board to facilitate ongoing liaison between the Forum and the Board. The remaining members of the Forum are to be individuals appointed by the Council.
- 3.2** In appointing the remaining members of the Forum, the Council is required to ensure so far as possible that the membership of the Forum is representative of the interests of persons or descriptions of persons who have an interest which is relevant to the Forum's general functions. Those persons are stated to be:
- holders of premises and personal licences,
 - the chief constable for the police area in which the Forum's area is situated,
 - persons having functions relating to health, education or social work,
 - young people, and
 - persons resident within the Forum's area
- 3.3** In order to publicise the Council's obligation to establish the Forum and in an effort to attract as many applications for membership as possible a number of steps were taken by Licensing Board staff. These were:
- the placing of an advert in the local press,
 - the placing of information leaflets in all local Council offices and libraries,
 - the inclusion of relevant information pertaining to the Forum on the East Ayrshire Council website licensing pages together with an application for membership for on line completion and submission,
 - the issuing of application for membership forms directly to prospective applicants from the categories of persons identified at para 3.2 above.
- 3.4** The total number of applications received by the closing date of 31 May 2007 was 10. The details of the various applicants are enclosed with this report at Appendix 1. In particular, Members are asked to note that only one application for membership has so far been received from any young persons or any person on behalf of representative bodies for young persons in the community. Accordingly, with the approval of

Members, it is intended to make additional efforts with the support and assistance of the Executive Director of Educational and Social Services to attract such applications for membership and thereafter seek Council approval for appointment in the future.

- 3.5** As referred to above, the requirement to establish the East Ayrshire Local Licensing Forum is a new obligation upon the Council by virtue of the Licensing (Scotland) Act 2005. As the obligation is not only to initially establish the Forum, but to thereafter maintain its existence, it is proposed to provide membership application functionality on the Council's website on a permanent basis to allow vacancies to be filled as the Forum develops.

4. OPERATION OF THE FORUM

- 4.1** The Forum is legally obliged, in each calendar year, with the exception of 2007 only, to meet in public on at least four occasions. In addition, the Licensing Board is also required to hold at least one joint meeting with the Forum. A convener of the Forum will also be required to be elected at the first meeting which will be scheduled to take place in or around August 2007. Thereafter, a convener will be required to be elected at the first meeting of the Forum in each calendar year. It would also be intended to develop draft governance procedures for consideration by the Forum at its first meeting.

5. LEGAL/POLICY/FINANCIAL/COMMUNITY PLANNING IMPLICATIONS

- 5.1** Other than the establishment of the Forum being in accordance with the Council's statutory obligations in terms of the Licensing (Scotland) Act 2005, there are no legal, policy or financial implications arising directly from the contents of this report.

- 5.2** The establishment of the Local Licensing Forum can also be regarded as an example of partnership working involving the public, private, voluntary and community sectors. As one of the Forum's principal functions will be to review and offer advice to the Licensing Board in the formation of all future licensing policy and thus be included in East Ayrshire Council's strategic approach to policy making its establishment, although based on a statutory obligation, is fully in accordance with the Council's wider aims in terms of the Community Plan.

6. CONCLUSION

- 6.1** As outlined above, whilst the Council does have a discretion in respect of the number of Members to be elected provided there are at least five and no more than twenty, it is suggested that at this stage of the

Forum's development it would be perhaps be prudent to appoint all of the applicants as detailed in Appendix 1 of this report which would allow the initial establishment of the Forum in implementation of the Council's statutory responsibility.

7. RECOMMENDATION

- 7.1** It is therefore recommended that the Council proceed to appoint the applicants as detailed in Appendix 1 to this report to serve on the East Ayrshire Local Licensing Forum.

Solicitor to the Council/Clerk to the Licensing Board

7 June 2007

LIST OF BACKGROUND PAPERS

Nil

Anyone wishing further information should contact Stuart McCall (Tel. 01563 576085).

Appendix 1

<i>Name</i>	<i>Address</i>	<i>Category Applied</i>
Eric Brown	Scottish Licensed Trade Association, c/o 26 Bank Street, Kilmarnock	Resident within the Forum's area. Holder of a licence in area.
Jack Campbell	8 John Weir Avenue, Cumnock	Resident within the Forum's area Community Council representative
David Little	23 Holehouse Road, Kilmarnock	Holder of a licence in area.
Alan Stewart	63 Belmont Avenue, Ayr	Holder of a licence
Liam Wells	East Ayrshire Council, Civic Centre, John Dickie Street, Kilmarnock	Education and Social Work
	ADAT Lodge, Ayrshire Central Hospital, Kilwinning Road, Irvine	Health
James Kelly	Community Warden, Auchinleck & Barshare	Resident within the Forum's area.
To be confirmed	Scottish Beer & Pub Association, 6 St. Colme Street, Edinburgh	Representing the holders of licences in area.
To be confirmed	Kilmarnock College	Young People
To be confirmed	Strathclyde Police	Representing the Chief Constable for the Police area.