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**REPORT TO: MORAY COUNCIL ON 18 MAY 2022**

**SUBJECT: MORAY LICENSING BOARD: APPOINTMENT OF MEMBERS**

**BY: HEAD OF GOVERNANCE STRATEGY AND PERFORMANCE**

**1. REASON FOR REPORT**

- 1.1 To invite the Council to appoint Members to the Moray Licensing Board (“the Board”) from the membership of the new Moray Council.
- 1.2 This report is submitted by the Head of Governance Strategy and Performance in his capacity as Clerk to the Moray Licensing Board.

**2. RECOMMENDATION**

- 2.1 **It is recommended that the Council agree the number of Members who should serve on the Moray Licensing Board for the period until May 2027 and make appointments to the Board accordingly.**

**3. BACKGROUND**

- 3.1 The Licensing (Scotland) Act 2005 (“The 2005 Act”) currently provides for the administration of licensing with respect to alcoholic liquor by the establishment of Licensing Boards for the area of each Council within Scotland.
- 3.2 Schedule 1 of the 2005 Act makes further provision for the membership and constitution of Licensing Boards.
- 3.3 The 2005 Act requires a council to hold an election of members to a Licensing Board for their council’s area at their first meeting after each ordinary election of the council.
- 3.4 The Licensing Board is a separate legal entity to the Council but is wholly staffed and resourced by the Council and all of the Board’s income is handed to the Council.
- 3.5 The Licensing Board in Moray has in the recent past consisted of 9 members. The 2005 Act stipulates that a Licensing Board is to consist of such number

(being not fewer than 5 and not more than 10) of members as may be determined by the relevant Council from among their councillors. The membership of 9 has traditionally been chosen as a number that can generally give at least a majority decision. The quorum is not less than half so a minimum of 5 members.

#### **4. DISQUALIFICATION OF INTERESTED PARTIES**

4.1 The 2005 Act states that a councillor is disqualified from election as, and from being, a member of a Licensing Board if the councillor is:

- (a) a premises licence holder,
- (b) an employee of a premises licence holder and works as such in licensed premises,
- (c) whether alone or in partnership with another person, engaged in the business of producing or selling alcohol,
- (d) a director or other officer of a company so engaged, or
- (e) an employee of any person so engaged and works as such in that business.

#### **5. OTHER INFORMATION**

5.1 The Licensing Board meets to deal with applications for alcohol related licences for licensed premises in Moray and for all other matters which fall to be dealt with in terms of the Licensing (Scotland) Act 2005.

5.2 The Licensing Board is also the relevant authority for the granting of licences and permissions under the Gambling Act 2005. Other licence types for example taxis are dealt with by the Licensing Committee of the Council.

5.3 Licensing Boards will sit at a frequency fixed by themselves to deal efficiently with the business they are required to transact. It has been found that an eight weekly cycle of meetings enables most of the Board's business to be transacted. An additional, ad hoc, meeting may be required if, for example, a request for review is submitted as the review must be heard within 42 days of the request being made. To date this has not been an issue. A suggested timetable of meetings is attached at **Appendix 1**. The Board is free to make its own rules so subsequent meeting dates may be subject to change by the Board.

5.4 In terms of the 2005 Act, a Licensing Board must, at their first meeting after each election of members of the Board, elect one of their members as Convener.

5.5 Each member of the Licensing Board must comply with the training requirements before that member may take part in any proceedings of the Board. Training for all members of the new Licensing Board has therefore been arranged for 8 June 2022. This involves a day of training followed by a brief examination after which members will be required to produce evidence of successful passing of the course to the Clerk.

## **6 SUMMARY OF IMPLICATIONS**

### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

### **(b) Policy and Legal**

The Licensing (Scotland) Act 2005 (“The 2005 Act”) currently provides for the administration of licensing with respect to alcoholic liquor by the establishment of Licensing Boards for the area of each Council within Scotland. Schedule 1 of the 2005 Act makes further provision for the membership and constitution of Licensing Boards.

The 2005 Act requires a council to hold an election of members to a Licensing Board for their council’s area at their first meeting after each ordinary election of the council.

### **(c) Financial implications**

Payment of allowances to Members is governed by the Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2016 and the Local Government (Allowances and Expenses) (Scotland) Regulations 2007 with maximum rates of payment of remuneration and allowances and expenses being specified by Scottish Ministers.

### **(d) Risk Implications**

None arising from this report.

### **(e) Staffing Implications**

The administration of appointments to Committees and Sub-Committees can be met within existing resources.

### **(f) Property**

None arising from this report.

### **(g) Equalities**

None arising from this report.

### **(h) Climate Change and Biodiversity Impacts**

None arising from this report.

### **(i) Consultations**

The Depute Chief Executive (Education, Communities and

Organisational Development), the Democratic Services Manager and the Equalities Officer have been consulted and any comments incorporated into the report.

## **7 CONCLUSIONS**

**7.1 Council is invited to agree the number of Members who should serve on the Moray Licensing Board for the period until May 2027 and make appointments to the Board accordingly.**

Author of Report: Sean Hoath Senior Solicitor and Depute Clerk to the Board

Background Papers: The Licensing (Scotland) Act 2005 ("The 2005 Act")

## Appendix I

It is proposed that the dates for the Meetings of the Board be as follows:

### Proposed Meetings

<b>DAY</b>	<b>DATE</b>
Wednesday	22 June 2022
Wednesday	7 September 2022
Wednesday	16 November 2022
Wednesday	8 February 2023
Wednesday	3 May 2023
Wednesday	21 June 2023