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## **MEMBERSHIP OF LICENSING BOARD AND CIVIC GOVERNMENT LICENSING COMMITTEE**

**Joint Report by Corporate Transformation and Services Director and  
Service Director Regulatory Services**

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### **SCOTTISH BORDERS COUNCIL**

**7 October 2015**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report gives Members details of the outcome of a review of the membership of the Licensing Board and the Civic Government Licensing Committee and gives options for the number of Members of the Board and Committee.**
- 1.2 A review of licensing has been undertaken to consider the appropriate number of members on both the Civic Government Licensing Committee and the Licensing Board. The 2 bodies are governed by different sets of legislation so cannot be combined.
- 1.3 In terms of membership of Licensing Boards and Civic Government Licensing Committees (or equivalent) in other local authorities, there is a wide variation across Scotland. Appendix 1 gives details of the number of members on each of these. Nationally, while there is a slight correlation with the number of members of Licensing Boards, there is no discernible pattern in membership numbers for the Committees which deal with Civic Government Licensing. Each Council has taken a decision on numbers based on its own local requirements and circumstances.
- 1.4 As there is not a specific national pattern of membership numbers on either Licensing Boards or Civic Government Licensing Committees, the current number of members on Scottish Borders Council's Board and Committee is not out of place. It is for Scottish Borders Council to choose the appropriate number of members of a particular body (albeit in line with legislation), to ensure quality decisions are made, following due process. One option would be to leave the size of the Board and Committee unchanged. Another would be to reduce the number of members of the Civic Government Licensing Committee to 10 to match the number on the Licensing Board. A further option would be, given the generally positive reaction to the reduction in numbers on the Planning and Building Standards Committee and the Local Review Body, to reduce the number of members of both the Licensing Board and the Civic Government Licensing Committee to 9.

#### **2 CONCLUSION**

- 2.1 It is recommended that Council agrees to one of the following options:**

- (a) to make no changes to the number of members on the Licensing Board and the Civic Government Licensing Committee;**
- (b) to reduce the number of members on the Civic Government Licensing Committee to 10 and amend the Scheme of Administration accordingly; or**
- (c) to reduce the number of members on the Civic Government Licensing Committee and the Scottish Borders Licensing Board to 9, amending the Scheme of Administration and notifying Scottish Ministers and publicising the change to the Licensing Board accordingly.**

### **3 BACKGROUND**

- 3.1 At the meeting of Scottish Borders Council on 20 November 2014, Members decided to approve an amended Scheme of Administration which was implemented from 1 January 2015. At that meeting, Members were advised that a separate review of licensing was being undertaken to consider the appropriate number of members on both the Civic Government Licensing Committee and the Licensing Board. This review would look at practice elsewhere in Scotland and also take soundings from members of both the Committee and Board, before reporting back to Council in early 2015. Unfortunately, due to other competing work priorities for officers, this review was delayed.
- 3.2 The Licensing (Scotland) Act 2005, which came fully into effect in September 2009, radically changed the administration of liquor licensing in Scotland. Premises licences, once granted, remain in force unless there is an application to alter it materially by the licence holder or there is some other reason, such as a request for a hearing to consider a matter brought to the attention of the Board by the Licensing Standards Officer. Opening hours for premises are also covered in premises approved operating plans so there is no need for the Board to consider annual applications for regular extensions.
- 3.3 The Licensing Board and the Civic Government Licensing Committee are governed by 2 separate sets of legislation, so their remits cannot be combined. The Licensing Board is the Licensing Authority for the Scottish Borders Local Government Area under the Licensing (Scotland) Act 2005, as amended by the Criminal Justice and Licensing (Scotland) Act 2010 and Alcohol (Scotland) Act 2010. As such, the Licensing Board is included in the Scheme of Administration for information, but technically is governed by its Licensing Policy Statement and own Scheme of Delegation. The Licensing Board deals with all matters relating to liquor licensing, as well as bookmakers' permits, betting office licences, bingo licences and amusement with prizes permits for liquor licensed premises.
- 3.4 The Civic Government Licensing Committee deals with all matters relating to the Council's responsibilities under the Civic Government (Scotland) Act 1982, except those matters specifically delegated to the Chief Legal Officer. The Committee therefore considers licensing and regulation of taxis and private cars, second-hand dealers, metal dealers, and miscellaneous licences such as street traders, market operators, public entertainment, etc. As both these bodies are quasi-judicial in nature, any decisions made by them must be non-political and do not require specific representation from each Ward or other geographic area.
- 3.5 Scottish Borders Council currently has 10 members on the Licensing Board and 11 members on the Civic Government Licensing Committee, each with a quorum of five. The other quasi-judicial Committees of the Council, the Planning and Building Standards Committee and Local Review Body each have 9 members. Each of these bodies are making decisions which have a direct impact on applicants' livelihoods and it is particularly important that the Council is seen to be taking those decisions in an appropriate manner, following due process, and giving reasons where required for these decisions. Members of those bodies must have sufficient time to devote to their duties and to develop their skills, knowledge and experience to deal with the issues that come before them. Council may wish to consider

whether this is best achieved with a smaller group of members, following the example of the Planning and Building Standards Committee and Local Review Body, or whether to retain the present numbers or only make a slight adjustment.

#### **4 OTHER LOCAL AUTHORITIES**

- 4.1 In terms of membership of Licensing Boards and Civic Government Licensing Committees (or equivalent) in other local authorities, there is a wide variation across Scotland. Appendix 1 gives details of the number of members on each of these. In terms of Licensing Boards, the legislation allows for a variation between 5 and 10 members. Most Councils are in the upper range with regard to membership numbers, and while the majority (31) have a single Board, there are 3 Councils which have established divisional Boards.
- 4.2 All Councils have arrangements within their committee structures for dealing with Civic Government Licenses. However, there are wider variations in the remits of Committees dealing with licenses - some only deal with licensing, others also include other regulatory functions such as planning, road construction consent, anti-social behaviour orders, etc. Again, the membership numbers for each of these Committees varies widely – from 7 up to 26 members. The number of members of these Committees is also not specifically related to the number of members of Licensing Boards or the total number of Councillors in any given Council.
- 4.3 Nationally, while there is a slight correlation for the number of members of Licensing Boards, there is no discernible pattern in membership numbers for the Committees which deal with Civic Government Licensing. Each Council has taken a decision on numbers based on its own local requirements and circumstances.

#### **5 COMMENTS FROM MEMBERS OF THE LICENSING BOARD AND CIVIC GOVERNMENT LICENSING COMMITTEE**

- 5.1 At the beginning of June, all members of both the Board and the Committee were invited to give their views in confidence on how well they thought these bodies were working and whether a change in the membership numbers would be of assistance, and 7 Members provided feedback. Thereafter, the Monitoring Officer and Chief Legal Officer met together with Members of the Board and Committee after their meetings in August.
- 5.2 During the consultation, one Member made strong representations to reduce the number of members on both the Board and the Committee. However, other Members were not so set on making such a change, some expressing concern about the impact this could have on attendance at meetings and whether this would put additional pressure on a smaller number of Members. The quorum for both bodies is currently five. In terms of attendance by Members over the 2014/15 Committee year (11 meetings), there is an average of 2 apologies per meeting of the Licensing Board and 3 per meeting for the Civic Government Licensing Committee.
- 5.3 As there is not a specific national pattern of membership numbers on either Licensing Boards or Civic Government Licensing Committees, the current number of members on the Scottish Borders Board and Committee is not out of place. However, it is for Scottish Borders Council to choose the appropriate number of members of a particular body (albeit in line with legislation), to ensure quality decisions are made, following due process.

Most Members expressed the view that having the same members on both the Board and the Committee – while dealing with different types of licences, but using a similar process – was worthwhile.

- 5.4 During the discussions between members of the Board & the Committee and officers, members were keen to express the view that they did not consider it would be helpful or necessary to change the numbers of the Board. They expressed the view that the current number allowed a wide degree of life experiences to be brought to the decision making process and that this was useful. They did feel however that it seemed an anomaly that there was a divergence in numbers between the Board and the Committee. This was felt to be particularly conspicuous as one meeting follows immediately upon the other.
- 5.5 An option could be to reduce the number of members of the Board and the Committee from 10 and 11 respectively to 9 on each. This would give these bodies the same number of members as that of Planning and Building Standards Committee and the Local Review Body, which are also quasi-judicial in nature. Reducing the number of members of these latter bodies had no impact on the decision making process for planning applications and it is not anticipated that this proposed reduction will have any impact either on the decision making process for the different types of licensing. No change is proposed to the quorum for meetings, which would remain at 5. Should Council approve the reduction in membership numbers of the Licensing Board, then under section 5(5) of the Licensing (Scotland) Act 2005, the Council is required to notify Scottish Ministers of the determination and to publicise it in such manner as it chooses. It is proposed that it would be appropriate to use the Council website for this and to issue a press release. It is not anticipated that this reduction in numbers will have any impact on the quality of decision making at meetings.
- 5.6 Members did raise a few points which did not relate directly to the membership of the Board and the Committee e.g. the structure of meetings and the application of policy, and these are being taken up by officers and training will be provided for all members of the Board and the Committee as part of ongoing support to both the Board and the Committee.

## **6 IMPLICATIONS**

### **6.1 Financial**

There are no costs attached to any of the recommendations contained in this report. Any reduction in membership of the Board or Committee could result in a very small drop in members' travel claims.

### **6.2 Risk and Mitigations**

Given the membership numbers of Licensing Boards and Licensing Committees in other Council areas in Scotland vary, there is little risk to the Council of either having too few or too many members on its own bodies to make a difference to decision making. Should the number of apologies for meetings increase, then membership numbers would need to be reconsidered, if it is thought that this was impacting on the quality of decisions being made or that Members were abdicating their responsibilities in terms of committee membership.

### **6.3 Equalities**

No Equalities Impact Assessment has been carried out on the findings of this report on the review of membership numbers of the Licensing Board

and Civic Government Licensing Committee. Any decisions of these bodies are made following due process which is applicable to all applicants, regardless of age, disability, gender, race, sexual orientation, pregnancy and maternity, or religion and belief.

**6.4 Acting Sustainably**

The findings of this report should not have any economic, social or environmental effects.

**6.5 Carbon Management**

The findings of this report have no direct impact on the Council's carbon emissions.

**6.6 Rural Proofing**

The number of members on either the Board or the Committee has no impact on the rural areas of the Borders.

**6.7 Changes to Scheme of Administration or Scheme of Delegation**

Changes may be required to the Scheme of Administration depending on the decision of Council.

**7 CONSULTATION**

7.1 The Chief Financial Officer, the Chief Legal Officer, the Service Director Strategy and Policy, the Chief Officer Audit and Risk, and the Chief Officer HR have been consulted and any comments received have been incorporated into the report.

**Approved by**

**Rob Dickson** Signature .....  
**Corporate Transformation and Services Director**

**Brian Frater** Signature .....  
**Service Director Regulatory Services**

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**Background Papers:** Nil

**Previous Minute Reference:** Scottish Borders Council, 20 November 2014

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jenny Wilkinson can also give information on other language translations as well as providing additional copies.

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## Licensing Boards and Licensing Committees in other Scottish Local Authorities

Local Authority	Total No of Cllrs	Licensing Board No of Cllrs	Licensing Committee Name	No of Cllrs
Aberdeen City	43	9	Licensing Committee	13
Aberdeenshire	68	3 Boards – 1 x 9 members; 2 x 8 members	Licensing Sub-Committee	8
Angus	29	10	Civic Licensing Committee	10
Argyll & Bute	36	8	Planning, Protective Services and Licensing Committee	15
Clackmannanshire	18	8	Regulatory Committee	8
Dumfries & Galloway	47	4 x Divisional Boards – 1 x 6 members; 1 x 8 members; 2 x 5 members	Civic Govt Licensing Panel – 17 members from which 7 members appointed for a meeting	7
Dundee City	29	9	Licensing Committee	8
East Ayrshire	32	10	Local Government Licensing Panel	11
East Dunbartonshire	24	10	Policy and Resources Committee	12
East Lothian	23	7	Licensing Sub-Committee	6
East Renfrewshire	20	5	Licensing Committee	5
Edinburgh	58	10	Licensing Sub-Committee	9
Falkirk	32	10	Civic Licensing Committee	10
Fife	78	8	Regulation and Licensing Committee	16
Glasgow	79	8	Licensing and Regulatory Committee	12
Highland	80	10	Licensing Committee	12
Inverclyde	20	8	General Purposes Board	12
Midlothian	18	9	General Purposes Committee	18
Moray	26	9	Licensing Committee	12
North Ayrshire	30	10	Licensing Committee	10
North Lanarkshire	70	10	Corporate Services (Licensing) Sub-Committee	12
Orkney	21	8	Licensing Sub-Committee	8
Perth & Kinross	41	10	Licensing Committee	7
Renfrewshire	40	7	Regulatory Functions Board	9
<b>Scottish Borders</b>	<b>34</b>	<b>10</b>	<b>Civic Government Licensing Committee</b>	<b>11</b>
Shetland Islands	22	10	Licensing Committee	8
South Ayrshire	30	8	Regulatory Panel	8
South Lanarkshire	67	4 x Divisional Boards- 10 members each	Licensing Committee	26
Stirling	22	8	Planning and Regulation Panel	8
West Dunbartonshire	22	8	Licensing Committee	8
West Lothian	33	10	Licensing Committee	7
Western Isles	31	10	Civic Government Licensing Panel	7