

Agenda Item	11
Report No	HC/37/26

The Highland Council

Committee: Highland Council

Date: 29 October 2026

Report Title: Independent review of public safety, licensing decision-making and governance

Report By: Chief Executive

1 Purpose/Executive Summary

- 1.1 This report is brought in response to the Council's approval of the motion - public safety, licensing decision-making and an independent review at its meeting on 17 September 2026.
- 1.2 The purpose of this report is therefore to present the proposed framework for commissioning and undertaking the independent review. The report sets out the proposed scope, governance and oversight arrangements, appointment process for the independent reviewer, engagement approach and the proposed timetable for delivery of the review and reporting of its findings to the Council.

2 Recommendations

- 2.1 Members are asked to:-
 - i. Approve the commissioning of an independent external review of The Highland Council's licensing arrangements in accordance with the Council motion approved on 17 September 2026, as set out in **Appendix 1** of this report.
 - ii. Note the current procedures in place for licensing, as set out in **Appendix 2** of this report.
 - iii. Approve the proposed scope for the review, as set out in **Appendix 3** of this report.
 - iv. Approve the proposed governance arrangements for the review, including the appointment of the external reviewer, oversight and reporting arrangements, as set out in **Appendix 4** of this report.
 - v. Approve the proposed timetable set out in **Appendix 5** of this report.

- vi. Agree that any interim report will be presented to The Highland Council for review.
- vii. Agree that the final report and recommendations will be presented to The Highland Council for consideration, determination and agreement of any implementation actions.
- viii. Note the interim arrangements set out at 11.1 of the report.
- ix. Note that the approval of the review does not prevent the Council from further implementing interim improvements to licensing governance, Member support, training or procedures prior to receipt of the final report, where deemed appropriate.

3 Implications

- 3.1 **Resource** – There will be financial and staff resource implications arising from the commissioning and support of an independent review. The cost of the review will be dependent on procurement processes and could be in the region of a cost of £50k. It is not intended that any costs are met from within the licensing budget, instead that costs arising from the review will be met initially from within existing overall Council budgets, failing which such costs would need to be met from Council Reserves. Officer time will be required to support the review process, including the collation of information, stakeholder engagement and implementation planning arising from any recommendations.
- 3.2 **Legal** - Licensing decisions are made by Members and Officers exercising statutory functions within a quasi-judicial process. The proposed independent review will not interfere with the statutory independence of licensing decision making or seek to revisit individual licensing decisions. The review will instead consider governance, training, procedures and supporting arrangements. Any recommendations resulting from the review will be subject to further legal consideration prior to implementation where necessary.
- 3.3 **Risk** - The review is intended to support public confidence and trust in the Council's governance arrangements. Failure to conduct the review, or failure to implement improvements arising from it where appropriate, may result in reputational risks to the Council. There is also a risk that recommendations arising from the review may require additional resources, changes to established processes or further Member consideration before implementation. An independent review provides an opportunity to identify learning, strengthen governance arrangements where appropriate and demonstrate the Council's commitment to continuous improvement.
- 3.4 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – There are no direct health and safety implications arising from this report.
- 3.5 **Gaelic** - There are no direct Gaelic implications arising from this report.

4 Impacts

- 4.1 As this report relates solely to the proposed commissioning and scope of an independent review, and does not itself introduce any policy changes or service changes, an Integrated Impact Assessment is not required at this stage. Any future recommendations arising from the review will be subject to appropriate assessment before implementation.

5 Background

- 5.1 At its meeting on 17 September 2026, the Council approved the Motion - Public Safety, Licensing Decision-Making and an Independent Review. The motion was brought following significant public interest in a decision of the Highland Licensing Committee on 23 June 2026 and the subsequent referral of that decision for reconsideration. A copy of the motion is attached as **Appendix 1** to this report.
- 5.2 While the motion arose from public interest in a particular licensing decision, the review is not intended to revisit or determine the merits of any individual case. It is instead intended to consider wider issues relating to licensing governance, decision-making processes, public confidence and opportunities for improvement.
- 5.3 The Council also noted its obligations under the Equality Act 2010 and its wider commitment to promoting equality, challenging discrimination and supporting the safety and wellbeing of all communities. Understanding how equality and safeguarding considerations are reflected within decision-making was identified as an important area for consideration.
- 5.4 In approving the motion, the Council agreed that an independent external review would provide an opportunity to examine licensing arrangements, identify lessons learned and areas of good practice. Independence is considered essential in ensuring public confidence in both the review process and any recommendations arising from it.
- 5.5 The Council also agreed to seek recommendations for improvement where appropriate, that the review should be led by an individual independent of The Highland Council and that it may draw upon specialist expertise in areas including licensing law, public protection and safeguarding, violence against women and girls, equality and human rights, governance and ethical decision-making.

6 Current procedures

- 6.1 A summary of current licensing procedures are set out in **Appendix 2** to this report.

7 Scope of the review

- 7.1 The proposed objectives and scope of the review are set out in **Appendix 3** to this report.

8 Governance arrangements

- 8.1 The proposed governance arrangements, including the appointment of the external reviewer, are set out in **Appendix 4** to this report.

9 Resource and budget provision

- 9.1 The full costs associated with the review cannot be determined at this stage. These will be fully assessed following agreement of the review scope, which will subsequently inform the procurement process.

10 Timescales

- 10.1 The proposed timetable for commissioning and completing this review are set out in **Appendix 5** to this report.

11 Interim measures

- 11.1 Whilst the review is intended to consider wider licensing governance arrangements independently, officers have identified a number of potential areas for early improvement that are being progressed without prejudicing the outcome of the review:
- The Strategic Lead, Legal and Regulatory, has written to Rape and Sexual Abuse Highland regarding training opportunities for Members of the Highland Licensing Committee.
 - The Chief Officer, Legal and Corporate Governance, has written to Police Scotland regarding training for Members of the Highland Licensing Committee on sexual offending, domestic abuse and road traffic offending.
 - Membership of the Highland Licensing Committee has been decoupled from membership of the Highland Licensing Board.
 - The Strategic Lead, Legal and Regulatory, has engaged with Police Scotland regarding training on evidential thresholds, arrest and charge processes for Members of the Highland Licensing Committee.
 - Principal Solicitor - Licensing has engaged with the Highland Violence Against Women Partnership regarding additional training opportunities for Members of the Highland Licensing Committee.
 - New Members of the Highland Licensing Committee have been appointed and training has been arranged for Members on 26 October 2026.
 - Principal Solicitor – Licensing reviewing how expertise within internal services can be utilised in training for decision makers and licence holders.

These measures are intended to support ongoing Member development and organisational learning and do not pre-empt the findings or recommendations of the independent review.

Designation: Chief Executive

Date: 5 October 2026

Authors:

Allan Gunn, Assistant Chief Executive - Corporate

Stewart Fraser, Chief Officer – Legal & Corporate Governance

Background Papers: None

Appendices:

Appendix 1 – Council motion – 19 September 2026

Appendix 2 – Current procedures

Appendix 3 – Scope of the review

Appendix 4 – Governance arrangements

Appendix 5 – Timescales

Public Safety, Licensing Decision-Making and an Independent Review

Council notes:

1. The significant public interest generated by the Highland Licensing Committee's decision of 23 June 2026 in relation to the taxi operator licences held by David Brown and the subsequent referral of that decision for reconsideration.
2. That discussion arising from the decision has extended beyond the circumstances of a single case and has prompted wider debate regarding public confidence in the Council's licensing processes, particularly in relation to public safety, safeguarding, transparency and the application of the statutory "fit and proper person" test.
3. That licensing is fundamentally a public protection function and that public confidence is strengthened when licensing decisions are seen to place safety, safeguarding and the prevention of harm at their centre
4. That a number of questions have been raised by elected members and members of the public regarding:
 - consistency of decision-making;
 - the weight attached to Police Scotland objections and public protection information;
 - the treatment of offences involving violence against women and girls;
 - the application of the fit and proper person test;
 - the balance between transparency and confidentiality in licensing proceedings;
 - the nature and extent of information available to members in cases involving ongoing criminal proceedings, including sub judice considerations; and
 - wider public confidence in licensing outcomes.
5. That Highland Council has responsibilities under the Equality Act 2010 and has publicly committed itself to promoting equality, challenging discrimination and advancing the safety and wellbeing of all communities.
6. That understanding how different groups experience licensing services, including women and girls, can help inform effective policy and decision-making.

Council believes:

1. That public confidence is enhanced where licensing decisions are demonstrably fair, transparent, consistent and grounded in public protection.
2. That residents and visitors should be able to use licensed services and premises with confidence that safeguarding considerations are being given appropriate weight.
3. That where questions have arisen regarding decision-making processes, governance arrangements, organisational culture or the consideration of equality and safeguarding issues, it is beneficial for these matters to be examined independently and objectively.
4. That an independent review would provide an opportunity to identify lessons, share good practice, strengthen public confidence and support elected members in carrying out their licensing responsibilities.

Council therefore agrees:

1. To commission an independent external review of Highland Council licensing.
2. That the review should be led by a suitably qualified individual independent of Highland Council and that, where appropriate, the review will engage with individuals, organisations or professional bodies with relevant expertise in:
 - licensing law;
 - public protection and safeguarding;
 - violence against women and girls;
 - equality and human rights; and
 - governance and ethical decision-making.
3. That the review may wish to consider:
 - the operation of the Highland Licensing Committee;
 - arrangements relating to the appointment of the Chair of Licensing, recognising the Committee's quasi-judicial role;
 - the adequacy of governance, advice and support arrangements available to members in supporting lawful, consistent and evidence-based decision making;
 - consistency in the application of the fit and proper person test;
 - the treatment of Police Scotland objections and public protection evidence;
 - decision-making in cases involving violence, sexual offending, domestic abuse and safeguarding concerns;

- the extent to which issues relating to women's safety and lived experience are reflected in licensing decision-making;
- whether there are lessons to be learned regarding equality, unconscious bias, organisational culture or other factors that could potentially influence decision making;
- the adequacy of member training and support;
- decision-making culture, governance arrangements and accountability mechanisms; and
- opportunities to strengthen public confidence, transparency and public understanding of licensing decisions.

4. That the review should, where appropriate, engage with elected members, Council officers, Police Scotland, licensing professionals, equality organisations, women's organisations and other relevant stakeholders.

5. That the Chief Executive is requested to bring forward to the next meeting of the Council detailed proposals for commissioning the review, including proposed governance arrangements, terms of reference, resource implications and estimated costs, for consideration and approval by Council.

6. That subject to approval as described at para 5 above, the Review Chair will be appointed and review initiated by the end of December 2026.

7. That an interim report will be presented to Highland Council by 31 March 2027, setting out progress to date, any emerging themes or findings, and the Review Chair's proposed timetable for completion of the review, including arrangements for the presentation of any final report and recommendations to Council.

8. That the review does not prevent the Council from instigating interim changes to the operation and membership of the Licencing Committee pending the final report and recommendations.

9. To reaffirm Highland Council's commitment to public safety, equality, transparency and continuous improvement in licensing decision-making.

Signed:

Mrs J Hendry Mrs K MacLean

Mrs K Willis Mrs E Knox

Ms S Atkin Ms L Johnston

Mrs M Reid

APPENDIX 2

CURRENT PROCESS:

Membership of the Committee:

The Highland Licensing Committee is made up of 12 Highland Councillors. The membership comprises 6 Members from Council Wards 1-10 and 6 Members from Council Wards 11-21.

Candidates are sought through Ward Managers.

Members are appointed by The Highland Council. The members are drawn from across the Council area rather than political groups.

Appointment of the Chair and Vice Chair:

The Highland Licensing Committee is responsible for selecting and appointing a Chair and Vice Chair from its membership.

Training and support:

Whilst there is no statutory requirement for members of the Licensing Committee to undergo training and be assessed, all Highland Licensing Committee members are offered and are expected to undertake training prior to involvement in the Committee and attend any additional training.

Within this Council period, the following training has been provided to Members:

- 13 June 2022
(Role of the Committee, introduction to licensing, role of Environmental Health/Trading Standards within licensing, declarations of interest, decision making and weighing up of evidence, case studies and questions)
- 14 February 2023
(Overview of licensing procedure and weighing up of evidence, interactive licensing case studies and professionalism and conduct)
- 16 February 2023
(External training provided by Highland Violence Against Women Partnership on grooming, commercial sexual exploitation, domestic abuse, sextortion, sexual abuse, coercive control, victim blaming and shaming and domestic abuse and children)

- 3 June 2025
(Civic licensing procedure, short term let licensing briefing and committee training scenarios)

Role of the Clerk:

The role of officers is to offer advice. The role of elected Members is to make decisions, taking into account the circumstances and advice offered.

Consultation:

All civic licence applications submitted to the Council must be sent to Police Scotland for consultation and if the licensable activity is mainly undertaken in a premises, it must also be sent to the Scottish Fire and Rescue Service.

This is a matter of law for both new and renewal applications.

This allows checks to be made against the person applying for the licence and, if applicable, the premises which are to be used.

Depending on the type of civic licence applied for, further consultation may also be carried out with additional internal Council services and other external agencies. In addition, details of the applications are made available on the public register on the Council's website and for premises being used for a licensable activity, a site notice will also be required to be displayed to make neighbouring households and properties aware.

Information provided to Members of the Committee:

All relevant information available to Council officers is shared with Committee members to aid decision making. The same advice and information is provided to all members of the Committee at the same time.

It is a matter for Police Scotland as to how much information they submit in relation to a licence application or review. Sometimes, matters are "sub judice". This means that they are pending a trial or decision. Police must decide how much information they can share, in order not to prejudice the right to a fair trial.

Disclosure of convictions:

Unspent convictions must be disclosed with all civic licence, HMO licence and landlord registration applications.

In addition, all applicants for taxi driver and private hire car driver licences and applicants for landlord registration are required to disclose both spent and unspent convictions. Spent convictions are those convictions that have reached a set rehabilitation period set by legislation. The amount of time for rehabilitation depends on the sentence imposed, not on the offence.

Certain spent convictions can become protected and are not automatically disclosable.

Police Scotland can seek to introduce convictions that are not automatically disclosable to the Licensing Committee by way of a preliminary procedure where it is deemed that justice cannot be done without these convictions being disclosed and considered.

Hearing process:

All licensing hearings follow an agreed hearing protocol:

[hlc hearing procedure](#)

[landlord-registration-hearings-procedure](#)

Items held in private:

Some matters are required to be considered in private because they contain sensitive information and are exempt from disclosure.

People can rightfully expect us to be careful with information which might cause distress or breach their personal confidentiality.

All relevant parties to the hearing are required to have fair notice of any material that is to be relied upon as part of the hearing process.

Decision making powers for the Committee:

These are set out in the Council's Scheme of Delegation:

<https://www.highland.gov.uk/downloads/download/236/scheme-of-delegation>

APPENDIX 3

SCOPE OF THE REVIEW

This review is intended to be a forward looking examination of The Highland Council's licensing arrangements. It is not established to revisit, re-hear or re-determine individual licensing decisions.

It is not intended to assess the conduct, performance or responsibilities of individual elected members or officers, as such matters are addressed through existing statutory, standards, complaints and employment procedures where appropriate.

The review provides an opportunity to consider whether the Council's governance arrangements, decision making, member support and training reflect best practice in public protection.

Matters to be included:

- Governance
 - How Members are nominated to be appointed to the Committee
 - How Members are selected to be appointed to the Committee
 - Procedure for appointing the Chair and Vice Chair to the Committee
- Member training and support
 - Availability of guidance, advice and support.
 - Whether there are lessons for Scottish local government arising from the Council's experience, including consideration of a mandatory nationally prescribed framework for elected member induction and ongoing training
 - Opportunities to strengthen knowledge and understanding of licensing responsibilities.
- Decision-making relating to violence, domestic abuse, sexual offending and safeguarding concerns
 - How information relating to violence, domestic abuse, sexual offending and safeguarding concerns is considered and balanced alongside other relevant factors
 - How Police Scotland information is considered within decision-making
- Application of the fit and proper person test
 - Consistency in the application of the fit and proper person test in decision making

- The extent to which relevant information is considered and assessed.
- Whether current approaches are consistent, robust and transparent.
- Equality and human rights considerations
 - How equality considerations are reflected within licensing processes.
 - The extent to which equality, safeguarding and lived experience considerations are reflected in decision-making, including issues affecting women and girls
 - Whether there are lessons to be learned regarding equality, unconscious bias or organisational culture
 - Compliance with relevant equality and human rights obligations.
- Transparency and public confidence
 - Transparency and accountability arrangements within the licensing process.
 - Public awareness and understanding of licensing decisions.
 - The relationship between transparency and confidentiality in licensing matters.
 - Potential measures to enhance public confidence in licensing governance and decision-making.

Matters not to be included:

The review shall not:

- Re-determine individual licensing applications or appeals.
- Substitute or overturn decisions of the Licensing Committee.
- Consider matters that are the subject of live court proceedings, statutory appeals or other legal processes where doing so would prejudice those proceedings.
- The review will not consider matters falling within the statutory remit of the Ethical Standards Commissioner or Standards Commission for Scotland.
- The review will not consider the conduct, performance, advice or discharge of responsibilities by officers, as such matters are addressed through existing Council and employment procedures as and where appropriate

- Determine civil or criminal liability.
- While individual cases may be examined as examples of process and decision-making, the review should focus on any systemic issues and organisational learning rather than attributing fault to individuals.

Methodology:

The independent reviewer shall determine the detailed methodology but may include:

- Review of policies, procedures and guidance.
- Examination of committee reports and decision-making processes.
- Stakeholder interviews and meetings.
- Written submissions.
- Benchmarking against good practice.
- Engagement with relevant professional organisations and subject matter experts.
- Consideration of relevant legislation, guidance and case law

Expected output and recommendations:

The final report should:

- Summarise findings.
- Identify examples of good practice.
- Highlight areas where improvement may be required.
- Make practical recommendations for improvement.
- Identify any recommended changes to governance, procedures, training, guidance or policy.
- Include an implementation framework where appropriate.

APPENDIX 4

GOVERNANCE ARRANGEMENTS

- The review will not interfere with the statutory independence of licensing committees in determining individual applications, but will examine governance, training, decision-making processes and supporting arrangements
- The review will be led by an independent reviewer external to The Highland Council appointed by the Chief Executive, in accordance with the Council's procurement procedures.
- The Chief Executive will provide administrative oversight on behalf of the Council but will not direct the findings, conclusions or recommendations of the review.
- The Council will retain responsibility for commissioning the review, approving its scope and considering the resulting recommendations, whilst the conduct of the review itself will remain independent
- The appointed reviewer will be required to declare any actual, potential or perceived conflicts of interest prior to appointment and throughout the duration of the review.
- Any conflicts will be assessed by the Chief Executive, in consultation with the Monitoring Officer where appropriate, and managed in a manner that preserves the independence, integrity and credibility of the review.
- Where a conflict cannot be satisfactorily managed, alternative arrangements, including replacement of the reviewer, will be implemented.
- Any material conflicts of interest identified during the review, together with the steps taken to manage them, will be reported to Council as part of the review governance arrangements.
- Any interim report is intended to provide an update on progress and emerging areas of inquiry and should not be regarded as indicating final findings or recommendations
- A final report will be provided to Council upon completion of the review, including findings, recommendations and opportunities for improvement.
- The reviewer will determine which stakeholders should be engaged with having regard to the scope and objectives of the review.
- However, the external review will act independently and will not be subject to direction from the Licensing Committee, elected members, officers or any stakeholder in relation to the findings or recommendations of the review.
- The final report will be published in full, subject only to lawful redactions required for confidentiality, data protection or legal reasons.

The external reviewer will be responsible for the following:

- Determining the review methodology.
- Directing the gathering of evidence.
- Engaging with stakeholders.
- Identifying emerging findings.
- Preparing interim and final reports.
- Making recommendations to the Council.

The Council will retain overall responsibility for:

- Approving the scope of the review
- Approving the budget and resources for the review.
- Receiving progress reports.
- Considering the findings and recommendations.
- Determining any actions arising from the review.

The external reviewer will be provided with reasonable access to relevant:

- Policies and procedures.
- Committee reports
- Minutes and recordings.
- Training materials.
- Governance documentation.
- Other information considered necessary for the review.

This will be subject to data protection requirements and information exempt from disclosure.

APPENDIX 5

PROPOSED TIMETABLE:

STAGE	TARGET DATE
Chief Executive to bring forward detailed proposals for commissioning the independent review	29 October 2026
Appointment of external reviewer	By end of December 2026
Commencement of review	By end of December 2026
Interim report provided to Full Council	25 March 2027
Final report	Reviewer to provide date in interim report
Presentation of final report and recommendation to Full Council	Date tbc