

Wednesday, 27 July 2022

**LICENSING SUB-COMMITTEE**

A meeting of **Licensing Sub-Committee** will be held on

**Thursday, 4 August 2022**

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

**Members of the Committee**

Councillor

Councillor Douglas-Dunbar

Councillor Ellery

Councillor Barbara Lewis

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**Together Torbay will thrive**

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# LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**  
To elect a Chairman/woman for the meeting.
2. **Apologies**  
To receive apologies for absence, including notifications of any changes to the membership of the Sub-Committee.
3. **Minutes** (Pages 4 - 7)  
To confirm as a correct record the Minutes of the meeting of the Licensing Sub-Committee held on 26 May 2022.
4. **Declarations of interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**  
To consider any other items that the Chairman decides are urgent.
6. **Licensing Act 2003 - An application for a Premises Licence in respect of The Still House, Unit 4 & 5 South Quay, Paignton, TQ4 6DT** (Pages 8 - 27)  
To consider and determine an application for a new Premises Licence in respect of The Still House, Unit 4 & 5 South Quay, Paignton, TQ4 6DT.

**7. Licensing Act 2003 – Determination of continuance of a Personal Licence**

(Pages 28 - 44)

To consider a report on the continuance of Personal Licence (PA0129).

**Meeting Attendance**

Please note that whilst the Council is no longer implementing Covid-19 secure arrangements attendees are encouraged to sit with space in between other people. Windows will be kept open to ensure good ventilation and therefore attendees are recommended to wear suitable clothing.

If you have symptoms, including runny nose, sore throat, fever, new continuous cough and loss of taste and smell please do not come to the meeting.

**Minutes of the Licensing Sub-Committee**

**26 May 2022**

**-: Present :-**

Councillors Ellery, Atiya-Alla and Douglas-Dunbar

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**3. Election of Chairman/woman**

Councillor Ellery was elected as Chairman for the meeting.

**4. Apologies**

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillors Atiya-Alla and Douglas-Dunbar instead of Councillors Barbara Lewis and Mills.

**5. Licensing Act 2003 - An application for a Premises Licence in respect of Fishcombe Cove Café, Fishcombe Cove, Brixham, TQ5 8RA**

Members considered a report on an application for a Premises Licence in respect of Fishcombe Cove Café, Fishcombe Cove, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation proposing additional conditions should the Premises Licence be granted.	25 April 2022

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined the application and responded to Members questions.
Police	The Police outlined their representation.

Applicant's response to Representations:

The Applicant confirmed that she had accepted the additional conditions proposed by the Police.

**Decision:**

That the application for a Premises Licence in respect of Fishcombe Cove Café, Fishcombe Cove, Brixham be approved as applied for, subject to the addition of the conditions proposed by the Police, as agreed by the Applicant.

**Reason for Decision:**

Having carefully considered all the written and oral representations, Members were satisfied that the imposition of the additional conditions alleviated the concerns of the Police and in turn, would ensure that these premises operations, upheld the Licensing Objectives.

**6. Exclusion of the Press and Public**

Prior to consideration of the item in Minute 7 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

**7. Application to Renew a Dual Hackney Carriage and Private Hire Drivers' Licence**

Members considered an exempt report regarding an application to renew a Dual Hackney Carriage and Private Hire Driver's Licence. At the meeting, Members heard representations from the Licensing Officer and the Applicant who also responded to Members questions.

**Decision:**

That the Applicant's application to renew his dual Torbay Council Driver's Licence, be refused.

**Reasons for Decision:**

In coming to that decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care or any other vulnerable person known to them to get into a vehicle with the Applicant alone. An unequivocal and unanimous answer by Members to this question, was 'no'.

Furthermore, Members found the Applicant's oral representation to be inconsistent and contradictory to that provided by the Police and determined on the evidence before them, that the Police's evidence to be reliable.

Members were alarmed to learn from the explanation given by the Applicant, of the incident which occurred on the 10 September 2021, that he thought it acceptable driving behaviour, having been asked by a member of the public to wait at the scene of an alleged criminal incident which he was intrinsically linked to, to drive

his licensed vehicle towards that pedestrian who was trying to assist in the incident, mount the pavement in an attempt to drive around the obstructing pedestrian, clipping her with his wing mirror in the process, and then to continue driving with another assisting pedestrian on top of the outside of his licensed vehicle, subsequently breaking, to cause that pedestrian to fall off, sustaining, thankfully in Members opinion, what were reported to be only minor injuries.

Members determined also that inconsistencies in the explanation given by the Applicant, was no more than a poor attempt to justify his conduct during this incident. In coming to that opinion, Members noted that the reason given by the Applicant for wanting to leave the scene, being that he had another fare he needed to get to, and found this not to be persuasive or a satisfactory justification for his conduct, given he already had a fare, being the two passengers, he had dropped to the shop and had been waiting for their return, to convey them on to another destination.

Members found the Applicant's conduct surrounding the incident on 10 September 2021 to be wholly unacceptable and fell well below the standard reasonably expected by them of a professional driver licensed by Torbay Council.

With regards to the incident on 29 April 2022, Members noted that the Applicant had been stopped after committing a moving traffic offence of excessive speed and was swabbed by the Police, testing positive for cocaine. Of great concern, Members noted that the Applicant was carrying out his duties as a licensed driver at the time. The Applicant was subsequently arrested and released pending investigation. The explanation given by the Applicant, as to how he came to test positive for an illegal substance, was in Members opinion, ludicrous, not plausible and a poor attempt to mislead them. Of the explanation, Members noted the positioning of the open can of fizzy drink which the Applicant says the substance must have found its way in to, being beside him in the front of the licensed vehicle, and the location of the two passengers in the back of his licensed vehicle, who the Applicant says must have been taking the illegal substance in the footwell therein, as he did not observe them taking drugs.

On the evidence before them, Members were satisfied that the Applicant himself had knowingly taken the illegal substance and such conduct in their opinion, was wholly unacceptable, placed members of the public and passengers at a significant risk of harm or death and fell well below the standard reasonably expected by them of a professional driver licensed by Torbay Council.

Of the incident on the 2 May 2022, Members noted the explanation given by the Applicant that he had been stopped by a Police Officer only because that Officer had it in for him, to be unfounded on the evidence before them, and noted with great concern that in the Officers opinion, the Applicant presented under the influence of drugs. The Applicant was subsequently arrested and released under investigation, pending the analysis of bloods.

Of the latter two incidents, Members were concerned by the Applicant's written response in the report before them, which states that they occurred within hours of each other, despite one occurring on the Friday and the other on the Monday. To

have written this, was again in Members opinion, a further attempt to mislead them and to play down the seriousness of the situation.

Noting that the Applicant had been arrested for the latter two incidents. Members further noted that the Applicant had replied to an email dated 12 June 2021 from the Licensing Authority, confirming that he had received and read the updated Taxi Policy. Despite this, the Applicant had failed to comply with that Policy, by failing to report an incident within 48 hours of an arrest and release, charge or conviction. Furthermore, and on the evidence before them, Members believed the Applicant sought to deliberately deceive the Licensing Authority by submitting an expired Enhanced Disclosure and Barring Services check, as an up to date one, as it turned out, showed these incidents and was the cause this Applicant was before them to determine.

When asked by Members why he had failed to report these incidents to the Licensing Authority, Members were dismayed and concerned by the Applicant's response of 'don't know, was it a Bank Holiday' and 'they had already written to me so they had already been notified'. This in Members opinion, demonstrated a lack of responsibility, accountability, professionalism and remorse by the Applicant, as he was aware that it was his obligation to notify the Licensing Authority in compliance of that Policy.

Members note in the Applicants written response in the report before them and the oral submission made by him throughout the meeting, that there are no charges against him at this time, stating that as far as the law is concerned, he is free to continue driving a motor vehicle and continue his job as a taxi driver. However, of the latter, Members noted that there was no requirement of a conviction for them to make a determination on the fit and properness of a licensed driver and given the number and nature of the incidents before them, Members unanimously determined that a refusal of this application was appropriate, proportionate and absolutely necessary, to ensure public safety.

Given the good character put forward by the Applicant, Members were advised that the Applicant had an existing written warning in place from a previous Licensing Sub-Committee decision, for speeding offences and complaints had been received for the same, despite the Applicant's submission that since 2007 he had never done anything wrong.

In concluding, Members determined unanimously that this application be refused and in doing so, was in their opinion, the only way the public and conveying passengers would be kept safe.

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Chairman/woman



Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of The Still House, Unit 4 & 5 South Quay, Paignton, TQ4 6DT

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub Committee** **4<sup>th</sup> August 2022**

Contact Officer: **Carrie Cottell**

☎ Telephone: **01803 207079**

✉ Email: **licensing@torbay.gov.uk**

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## 1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence, in respect of the Premise detailed above.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives the “Prevention of Crime and Disorder” and “Public Safety”.
- 1.4 The matter must be considered on its merits, having received details of the issues arising either at a hearing or by written Representation. A decision must be made, having considered the Representations, either:-
  - (a) to grant the licence subject to
    - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
    - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the Premises Supervisor;
  - (d) to reject the application.



- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

## **2. Application**

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:-

The Supply of Alcohol for consumption both on and off the premises from 09:00 until 23:30 Monday to Saturday and from 10:00 to 23:30 on Sunday.

Premises opening hours from 09:00 until 24:00 Monday to Sunday.

The Applicant has given the following description of the premises: -

“Cafe bar 40 covers inside and 40 covers outside. Gin school with 10 individual stills and a 200l operational still for gin production. Off sales of spirits in sealed containers.”

The plan accompanying the application is shown in Appendix 2.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as a relevant Representation has been received. The Licensing Authority is also satisfied that the Representation has been received within the appropriate time scale and has not been subsequently withdrawn.

We have received 1 Representation from a Responsible Authority. This is from Devon and Cornwall Police, in relation to the Licensing Objectives, the “Prevention of Crime & Disorder” and “Public Safety”. This is shown in Appendix 3.

There have been no other Representations received from any other Responsible Authority or any Interested Party, other than that mentioned above.

- 2.3 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
- (a) The holder of the licence against any decision

- (i) to impose conditions on the licence, or
- (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.

(b) Any person who made a relevant Representation who desires to contend

- (i) that the licence ought not to have been granted, or
- (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.

2.7 Following such Appeal, the Magistrates' Court may:-

- (a) dismiss the appeal,
  - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
  - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such order as to costs as it thinks fit.

**Steve Cox**  
**Environmental Health Manager (Commercial)**

### **Appendices**

Appendix 1 Relevant sections of the application form

Appendix 2 Plan of the Premises

Appendix 3 Representation from 1 Responsible Authority

### **Documents available in Members' rooms**

None

### **Background Papers:**

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2021-26

\* required information

## Section 1 of 21

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

- System reference  This is the unique reference for this application generated by the system.
- Your reference  You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.
- Are you an agent acting on behalf of the applicant? Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.
- Yes  No

### Applicant Details

- \* First name
- \* Family name
- \* E-mail
- Main telephone number  Include country code.
- Other telephone number
- Indicate here if you would prefer not to be contacted by telephone

- Are you:
- Applying as a business or organisation, including as a sole trader
- Applying as an individual
- A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

### Applicant Business

- Is your business registered in the UK with Companies House?  Yes  No
- Registration number
- Business name  If your business is registered, use its registered name.
- VAT number   Put "none" if you are not registered for VAT.
- Legal status
- Note: completing the Applicant Business section is optional in this form.

*Continued from previous page...*

Your position in the business

Home country

The country where the headquarters of your business is located.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 21**

**PREMISES DETAILS**

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

**Premises Address**

Are you able to provide a postal address, OS map reference or description of the premises?

- Address     OS map reference     Description

**Postal Address Of Premises**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Further Details**

Telephone number

Non-domestic rateable value of premises (£)

**Section 3 of 21**

**APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

**Confirm The Following**

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

**Section 4 of 21**

**NON INDIVIDUAL APPLICANTS**

Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.

**Non Individual Applicant's Name**

Name

**Details**

Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)

Continued from previous page...

PRIVATE LIMITED COMPANY

**Address**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Contact Details**

E-mail

Telephone number

Other telephone number

\* Date of birth  /  /   
dd mm yyyy

\* Nationality  [Documents that demonstrate entitlement to work in the UK](#)

**Section 5 of 21**

**OPERATING SCHEDULE**

When do you want the premises licence to start?  /  /   
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end  /  /   
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off- supplies you must include a description of where the place will be and its proximity to the premises.

cafe bar 40 covers inside and 40 covers outside. Gin school with 10 individual stills and a 200l operational still for gin production. Off sales of spirits in sealed containers.

*Continued from previous page...*

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

100

### Section 6 of 21

#### PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will you be providing plays?

- Yes  No

### Section 7 of 21

#### PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will you be providing films?

- Yes  No

### Section 8 of 21

#### PROVISION OF INDOOR SPORTING EVENTS

[See guidance on regulated entertainment](#)

Will you be providing indoor sporting events?

- Yes  No

### Section 9 of 21

#### PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will you be providing boxing or wrestling entertainments?

- Yes  No

### Section 10 of 21

#### PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will you be providing live music?

- Yes  No

### Section 11 of 21

#### PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will you be providing recorded music?

- Yes  No

### Section 12 of 21

#### PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will you be providing performances of dance?

Continued from previous page...

**Section 13 of 21**

**PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE**

[See guidance on regulated entertainment](#)

Will you be providing anything similar to live music, recorded music or performances of dance?

- Yes  No

**Section 14 of 21**

**LATE NIGHT REFRESHMENT**

Will you be providing late night refreshment?

- Yes  No

**Section 15 of 21**

**SUPPLY OF ALCOHOL**

Will you be selling or supplying alcohol?

- Yes  No

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End



Continued from previous page...

SUNDAY

Start

End

Start

End

Will the sale of alcohol be for consumption:

- On the premises     Off the premises     Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

**Name**

First name

Family name

Date of birth  /  /

Continued from previous page...

**Enter the contact's address**

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text" value="BRIXHAM"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>
Personal Licence number (if known)	<input type="text" value="PA3623"/>
Issuing licensing authority (if known)	<input type="text" value="TORBAY COUNCIL"/>

**PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT**

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

**Section 16 of 21**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

**Section 17 of 21**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

Page 18

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

TUESDAY

Start	<input type="text" value="09:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

WEDNESDAY

Start	<input type="text" value="09:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="09:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="09:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="09:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="09:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

**Section 18 of 21**

**LICENSING OBJECTIVES**

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

*Continued from previous page...*

List here steps you will take to promote all four licensing objectives together.

An incident log and an Alcohol refusal log will be kept at the premises.

b) The prevention of crime and disorder

1. A CCTV system will be installed. The CCTV system will be in operation when premises are open to the public. All recordings from the system will be kept for a period of 14 days and will be available to the police on request.
2. The premises will provide training to all staff in relation to their responsibilities with regards to the Licensing Act.
3. All alcohol sold for consumption on the premises will be consumed within the bounds of the premises or the boundary of the outside seating area
4. glasses used in the outside are will be clear regularly
5. All Alcohol sold for consumption off of the premises will be sold in sealed containers.

c) Public safety

1. A first aid box will be kept on the premises.
2. Fire extinguishers will be on site.
3. A fire risk assessment will be in place and will be regularly reviewed and updated as necessary.

d) The prevention of public nuisance

1. Customers will be requested to respect the needs of nearby residents and to leave the premises and the area quietly.
2. Deliveries of materials necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.
3. The Licensee will ensure that staff who arrive early morning or depart late at night when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents.
4. The movement of bins and rubbish outside the premises will be kept to a minimum after 11.00pm. This will help to reduce the levels of noise produced by the premises.
5. Bright lights on or outside the premises will be positioned and screened in such a way so as to not cause a disturbance to nearby residents.
6. Adequate waste receptacles for use by customers will be provided in the local vicinity.

e) The protection of children from harm

1. All staff will receive training in relation to their responsibilities with regards to confirming formal proof of age.
2. The premises will operate a Challenge 25 Policy, whereby any individual whom appears to be under the age of 25 shall be required to provide an approved form of photographic identification as outlined within the Torbay Council Licensing Statement Principles.
3. Challenge 25 posters will be displayed.

**Section 19 of 21**

**NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK**

*Continued from previous page...*

\* I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the licensing act 2003, to make a false statement in or in connection with this application.

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act, 1998. The information that you provide on this form will only be used in the processing of the application form, and will only be disclosed where necessary under any applicable legislation and certain circumstances should the application be successful such as publication of business details on a public register, it may also be shared for the purposes of enforcement

You have the right to access your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 207467. Further information can be found on the Information Governance pages on Torbay Council's internet pages at [www.torbay.gov.uk](http://www.torbay.gov.uk)

\* Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise

\* I have gained permission from all licence holders in making this application

[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).

The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15).

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/torbay/apply-1> to upload this file and continue with your application.

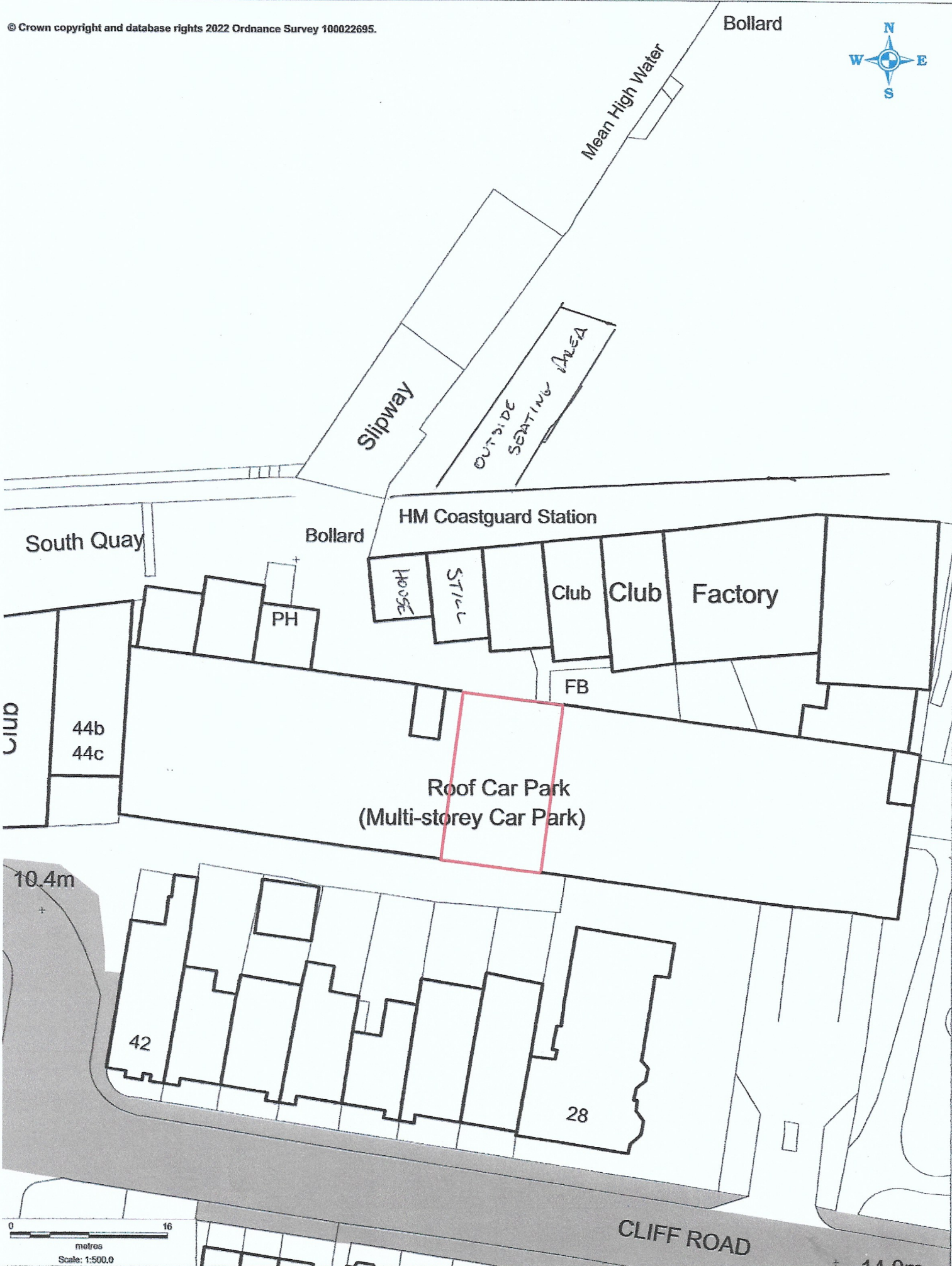
Don't forget to make sure you have all your supporting documentation to hand.

**IT IS AN OFFENCE LIABLE TO SUMMARY CONVICTION TO A FINE OF ANY AMOUNT UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED**

THE STILL HOUSE. UNITS 4 and 5 SOUTH QUAY, PAIGINTON HARBOUR.





**From:** [SMART Julie 50403](#)  
**To:** [Licensing](#)  
**Cc:** [Cottell, Carrie](#)  
**Subject:** STILL HOUSE, UNIT 4 & 5 SOUTH QUAY, PAIGNTON, TQ4 6DT  
**Date:** 13 July 2022 13:23:49  
**Attachments:** [image001.png](#)  
[image003.jpg](#)  
[image005.png](#)  
[image002.png](#)  
[image004.jpg](#)  
[image006.png](#)  
[New bar distillery restaurant in Paignton Harbour.pdf](#)

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Good afternoon

Please accept this email as a representation in respect of an application for the grant of a premises licence at the above premises.

For your information, the premises are situated on South Quay within Paignton Harbour, which is a working harbour with associated vehicle and pedestrian movement.

At 1450 hrs on Monday 13 June 2022 Ms Katrina Wade sent an email to me and Mr Karl Martin, in which she sought our views on her draft application (which was attached) before she submitted it.

Either later that day or the following morning, I discussed the application with Mr Martin, in particular in relation to the outside area. I asked Mr Martin whether this area would be subject of a Pavement Café Permit or whether it was Harbour Authority land. Mr Martin advised me that he thought that it belonged to the Harbour Authority, and he mentioned that he had safety concerns in respect of the use of some of the land in that area by other licensed premises, which he said he intended to discuss with the Harbour Authority.

Having given the matter some thought, and looked at the premises licences for other premises in that area (South Quay and The Crab & Hammer) to ascertain whether their licences contained conditions in relation to the management of their outside areas, I sent an email to Ms Wade at 1150 hrs on Tuesday 14 June 2022 in which I recommended that she include the below conditions within her application:

1. Persons using the outdoor seating area will be seated at all times.
2. The supply of alcohol to persons using the outside area shall only be permitted by way of table service, and waiting staff shall ensure that customers are seated and that empty glasses are cleared away promptly.
3. In the outside area, there shall be no consumption of alcohol, or other beverages, from glass bottles from which it is intended or likely that a person shall drink.

A copy of that email correspondence is attached.

At 1437 hrs on Wednesday 15 June 2022 I received an email from Torbay Council advising me that they had accepted an application for the grant of a premises licence at The Still House, with the last date for representations being 13 July 2022.

On looking at the accepted application I noted that the 3 conditions I recommended in my email



of 14 June 2022 had not been included in the operating schedule. To date I have not received any contact from Ms Wade in relation to my email of 14 June 2022 and therefore I do not know if these conditions are acceptable to her.

In respect of the 3 proposed conditions, I consider these to be appropriate measures to ensure that the outside area of the premises is managed in a responsible manner which will assisting in promoting the licensing objectives the prevention of crime and disorder and promotion of public safety.

Kind regards

**Julie Smart**

Alcohol Licensing Officer - Torbay



**Prevention Department**

Devon and Cornwall Police, Police Station, South Street, Torquay, TQ2 5EF

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For more information, or to contact us, please visit us at [www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk) or [www.dorset.police.uk](http://www.dorset.police.uk) or e-mail [101@devonandcornwall.pnn.police.uk](mailto:101@devonandcornwall.pnn.police.uk) or [101@dorset.pnn.police.uk](mailto:101@dorset.pnn.police.uk)

**From:** [SMART Julie 50403](#)  
**To:** [info@brixhamgin.com](mailto:info@brixhamgin.com)  
**Cc:** [Karl MARTIN \(karl.martin@torbay.gov.uk\)](mailto:Karl.MARTIN@torbay.gov.uk)  
**Subject:** FW: New bar, distillery, restaurant in Paignton Harbour  
**Date:** 14 June 2022 11:50:00  
**Attachments:** [still house premises licence APPLICATION.pdf](#)

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Good morning Katrina

Thank you for sending me your draft application.

Having given the matter some consideration I think it would be appropriate to include the below conditions in relation to the outside area, which I believe you may be renting from the Harbour Authority, similar to that at South Quay also on Paignton Harbour:

1. Persons using the outdoor seating area will be seated at all times.
2. The supply of alcohol to persons using the outside area shall only be permitted by way of table service, and waiting staff shall ensure that customers are seated and that empty glasses are cleared away promptly.
3. In the outside area, there shall be no consumption of alcohol, or other beverages, from glass bottles from which it is intended or likely that a person shall drink.

I hope the above will be acceptable to you, but should you wish to discuss further please do not hesitate to contact me.

Kind regards  
Julie

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**From:** Brixham Gin <[info@brixhamgin.com](mailto:info@brixhamgin.com)>  
**Sent:** 13 June 2022 14:50  
**To:** [Karl.Martin@torbay.gov.uk](mailto:Karl.Martin@torbay.gov.uk); SMART Julie 50403  
<[Julie.Smart@devonandcornwall.pnn.police.uk](mailto:Julie.Smart@devonandcornwall.pnn.police.uk)>  
**Subject:** New bar, distillery, restaurant in Paignton Harbour

Hi

I'm in the process of applying for a premises licence for units 4 & 5 South Quay, Paignton harbour. We have a lease with TDA.

I have been speaking to Carrie Cottell and she suggested I get your views before I submit the application.

The units are to the right of The Crab & hammer when looking out to sea with the multi storey car park behind. Would we need to put any special undertakings in the public nuisance section as we will be fairly remote from residential premises.

Draft application attached.

Best regards  
Katrina Wade

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Brixham Gin Company



## **TORBAY COUNCIL**

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Report No: Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – Determination of continuance of Personal Licence (PA0129), held by Ms D.J. Winstanley, following notification of conviction of a relevant offence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **4 August 2022**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Sarah Clarke**  
☎ Telephone: **01803 207429**  
✉ E-mail: **licensing@torbay.gov.uk**

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### **1. Key points and Summary**

- 1.1 To consider and determine the continuance of the Personal Licence held by Ms. D.J. Winstanley, following her conviction on 27 April 2022, of a relevant offence under Schedule 4 of the Licensing Act 2003.
- 1.2 The decision to suspend or revoke a personal licence must be made by the Licensing Committee or a Sub-Committee thereof. The action required by a Licensing Officer, before such a decision is made, is to provide formal notification to the licence holder that the Licensing Authority is considering suspending or revoking their licence and invite them to make representations concerning the continuance of the licence.
- 1.3 Torbay Council's Interim Licensing Manager issued a notification letter of the type mentioned in paragraph 1.2. above, on 27 May 2022. The Licensing Authority did not receive a response to that letter within the notified period of 28-days, nor subsequently; determining that no representation has been made by Ms. D.J. Winstanley in respect of her licence.
- 1.4 The matter must be considered on its own merits, having received details of the issues arising at a hearing and by reference to information presented in this report. A decision must be made to:
  - a) Do nothing and leave the personal licence in place
  - b) Suspend the personal licence for a period not exceeding six months
  - c) Revoke the personal licence.

- 1.5 Reasons for the decision must be given for inclusion in the Notice which will be served on Ms. D.J. Winstanley.

## **2. Background**

2.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave Licensing Authorities the power to suspend (for a maximum period of six months) or revoke personal licences where it becomes aware that the holder has been convicted of a relevant or foreign offence, or has been required to pay an immigration penalty, from 6 April 2017. Prior to this, only Magistrates' Courts could suspend or revoke these licences. This is a discretionary power, there is not a positive duty upon Licensing Authorities to consider all personal licence holders who may have been convicted or who receive convictions in the future.

2.2 Section 138(2) of the Policing and Crime Act 2017 prescribes that these powers cannot be delegated to Officers. However, the discretionary nature of the powers permits Officers on a case-by-case basis to consider whether the nature and seriousness of the conviction or convictions should be referred to the Licensing Committee or Sub-Committee for determination. Where Officers consider the offence committed calls into question the ongoing suitability of a person to hold a personal licence, they must first wait until the period during which an appeal can be made in relation to the offence has ended. Where an appeal is not made, the Officer must notify the licence holder, where the Licensing Authority is considering whether to suspend or revoke their licence and invite them to make representations concerning:

- (a) the relevant offence that has caused the Licensing Authority to issue the notice,
- (b) any decision of a court under section 129 or 130 in relation to the licence, and
- (c) any other relevant information (including information regarding their personal circumstances).

Representations must be made within the period of 28 days, beginning with the date the Notice is issued.

2.3 The Policing and Crime Act 2017 does not set out any hearing procedures for determining whether to suspend or revoke personal licences. The Section 182 Guidance issued by the Secretary of State in April 2018, specifies at paragraph 4.45, that determination of matters of this nature fall to Licensing Committees or Sub-Committees thereof. The Council's delegation scheme, published in the Council's "Licensing Statement of Principles 2021-2026" recommends that "Applications for review of personal licences with unspent convictions" is a matter for the Council's Licensing Sub-Committee.

2.4 There is no legal obligation to hold a hearing to determine the continuance of the personal licence held by Ms. D.J Winstanley. However, to satisfy the principles of natural justice and provide a framework in the event of an appeal to the Magistrates' Court, this matter has been brought before a Licensing Committee.

2.5 The Licensing Act 2003, Part 6, places an obligation upon a personal licence

holder charged with a relevant offence to inform the Court on charge, or no later than the first appearance, of their status as a personal licence holder. Unless exceptional circumstances apply, that licence should be produced to the Court.

- 2.6 A personal licence holder who fails to notify the Court as per paragraph 2.4 above or the Licensing Authority as described in paragraph 2.8 below, commits a further offence. The same provision applies to any determination of appeal against a conviction or sentence. A person found guilty of an offence under this section, is liable on summary conviction to a fine not exceeding Level 2 on the standard scale. The Interim Licensing Manager does not know if Ms. D.J. Winstanley notified the Court of the existence of her Personal Licence.
- 2.7 Members are asked to please note that Devon and Cornwall Police made the Licensing Authority aware of the conviction handed down to Ms. D.J. Winstanley, not the Court.
- 2.8 The personal licence holder is also under a duty to inform the Licensing Authority (by way of a notice) of their conviction and sentence. They must do this as soon as is reasonably practicable. Ms. D.J. Winstanley has failed to inform the Licensing Authority of receipt of her conviction for a relevant offence.
- 2.9 Government Guidance states at paragraph 4.3: *“Any premises at which alcohol is sold or supplied where the requirement for a personal licence holder does apply may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence. However, the requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to be present on the premises or oversee each sale; it is sufficient that such sales are authorised.”*
- 2.10 The holder of a personal licence does not need to be connected to a particular premises, and once granted, the holder may sell or supply alcohol from any licensed premises in England and Wales.
- 2.11 Where the Licensing Authority determines not to revoke the licence, the Licensing Officer must write to the Police confirming this decision and invite the Police to make representations about whether the licence should be suspended (perhaps for a longer period) or revoked. This clearly is a departure from arrangements for determinations for premises licence and variations, which seek representations from the police and other responsible authorities in advance of a hearing.
- 2.12 Police representations must be made in writing and submitted within 14 consecutive days (beginning with the day the Council Notice is received by them).
- 2.13 Should the Police not make any comments/support the decision of the Licensing Authority, then the Interim Licensing Manager or the Environmental Health Manager (Commercial) may, it is suggested in collaboration with the Chairman of the Licensing Committee and the Council’s Legal Advisor, determine whether a second hearing is necessary, or whether the original decision (as notified) applies.
- 2.14 Where the original decision is upheld, then a Decision Notice will be issued to the Licence Holder and the Police. The Police or the Licence Holder may appeal the decision of the Licensing Authority.

- 2.15 Where the Police make representation, then a second hearing must be held to decide the following:
- a. the licence will be suspended for a period not exceeding six months
  - b. the licence is revoked.
- 2.16 Following the second hearing, a Decision Notice will be issued to the Licence Holder and the Police. Both parties can appeal the decision.
- 2.17 Following such Appeal, the Magistrates' Court may:
- a. dismiss the appeal,
  - b. substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
  - c. remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
  - d. and may make such order as to costs as it thinks fit.

### **3. Matters specific to Ms. D.J. Winstanley**

- 3.1 A Personal Licence was issued by Torbay Council to Ms. D.J. Winstanley on 27 May 2015. A copy of the Personal Licence is provided at **Appendix 1**. As of 1 April 2015, there is no requirement to renew a personal licence.
- 3.2 On 27 April 2022, Julie Smart, Alcohol Licensing Officer, Devon and Cornwall Police contacted the Licensing Authority to report Ms. DJ. Winstanley, had been recently convicted of a relevant offence, under Schedule 4 of the Licensing Act 2003. A copy of this correspondence is provided at **Appendix 3** and a copy of relevant offences under Section 4 is provided at **Appendix 4**.
- 3.3 The conviction relates to an offence committed under the Road Traffic Act 1988 (c.52) (b) Section 4 (driving etc. a vehicle when under the influence of drink or drugs). Ms. D.J Winstanley was ordered to pay a fine of £120.00, Costs of £85.00, a Victim Surcharge of £34.00 and was disqualified from driving for an obligatory period of 14 months. The conviction will be spent on 26 June 2023.
- 3.4 The Interim Licensing Manager, noting the seriousness of the offence and the penalty handed down by the Court, wrote to Ms. D.J. Winstanley to notify her that the Licensing Authority is considering suspending (for a maximum of six months) or revoking the licence. A copy of this letter is provided at **Appendix 2**.
- 3.5 The Interim Licensing Manager directed correspondence to the address given by Ms. D.J. Winstanley in Court, as advised by the Police Licensing Officer, and to a second address, which corresponded to the address provided by Ms. D.J. Winstanley when she applied to Torbay Council for her Personal Licence. Ms D.J. Winstanley was invited to make representations by 27 May 2022 but did not do so.
- 3.6 The Interim Licensing Manager has since become aware that the address the Licensing Authority holds on file for Ms. D.J. Winstanley no longer exists. Members will wish to note that Ms. D.J. Winstanley is under a duty (section 127

of the Licensing Act 2003) to inform the Licensing Authority of any change of address and that a person commits an offence if s/he fails without reasonable excuse to comply with this requirement. A person found guilty of an offence under this section is liable on summary conviction to a fine not exceeding Level 2 on the standard scale.

**Sarah Clarke**  
**Interim Licensing Manager**

### **Appendices**

- Appendix 1 Copy of Personal Licence
- Appendix 2 Copy of Suspension/Revocation Notice issued to Ms. D.J. Winstanley
- Appendix 3 Copy of notification of offence from Devon and Cornwall Police
- Appendix 4 Copy of Schedule 4 of the Licensing Act 2003 – List of Relevant Offences

### **Documents available in Members' rooms**

None

### **Background Papers:**

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2021-26

Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)




Appendix 1

Copy of Personal Licence – issued 27 May 2015

Licensing Act 2003  
**Personal Alcohol Licence** **PA0129**

LOCAL AUTHORITY


	Licensing Section Torbay Council C/O Town Hall Castle Circus Torquay TQ1 3DR
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Torbay Council has granted a Personal Licence to the person named on this licence who is authorised to sell or supply alcohol or to authorise the sale or supply of alcohol in accordance with the Licensing Act 2003.

DURATION OF LICENCE

Issued : 7 May 2015 Expires: No Expiry

NAME & ADDRESS OF HOLDER OF PERSONAL LICENCE

**Davina Jayne WINSTANLEY**  


ANNEX 1 : RELEVANT CONVICTIONS

Conviction Date	Offences	Sentence
	None Recorded	



Steve Cox  
Environmental Health Manager (Commercial)

## The Duties of a Personal Licence Holder

### 1. Change of Address

If you change address you must notify the Licensing Section, Torbay Council as soon as reasonably practicable. Your licence must be returned with the notification and a new licence will be issued.

**Note:** Wherever in England and Wales you may now decide to live, your licence will be issued or renewed by Torbay Council. Do not send your licence to any other licensing authority even if you are no longer resident in the Torbay Council district. Failure to notify a change of address is an offence.

### 2. Duty to Produce Licence

- a) The Licensing Authority is required to update your personal licence whenever a change is required as a result of a notification from you or a court. The licensing authority may require you to produce your licence within a period of 14 days. Failure to provide your licence to the Licensing Authority is an offence.
- b) You must provide your personal licence for examination by a Constable or an authorised officer of the Licensing Authority whenever you are engaged in the supply or sale of alcohol. Failure to produce the licence for examination is an offence.

### 3. Theft, loss, etc of personal licence

Where your personal licence has been lost, stolen, damaged or destroyed, you may apply to the licensing authority for a copy of the licence. A fee is payable for this service.

### 4. Surrender of Licence

If you wish to surrender your personal licence you must return the licence to the Licensing Section, Torbay Council together with a signed letter stating that you wish to surrender the licence.

### 5. Convictions after Grant of Licence

- a) If you appear in court on a charge relating to a relevant offence, you must produce your licence to the court. If you cannot produce your licence, you must notify the court that you are a personal licence holder.
- b) If you are informed that you have been granted a personal licence after your first appearance in court, you must inform the court at the next hearing that you are now a personal licence holder.
- c) Where you have produced your licence to the court, or notified them of its existence, you must also notify the court at your next appearance, if any of the following events have occurred:
  - You have made or withdrawn an application for renewal of your personal licence,
  - You have surrendered your personal licence,
  - Your personal licence has been renewed,
  - Your personal licence has been revoked
- d) If you are convicted of a relevant offence the court may order the forfeiture or suspension of your licence. The court will notify the Licensing Authority.
- e) You are required to notify this Licensing Authority of any convictions for a relevant offence. The notification must provide the nature and date of conviction and the sentence imposed. Your personal licence must be returned with the notification. Failure to make this notification is an offence.

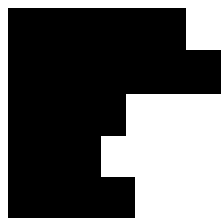
Licensing Section  
Torbay Council  
C/O Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

## Appendix 2

### Copy of Suspension/Revocation Notice issued to Ms. D.J. Winstanley

## TORBAY COUNCIL

Miss D.J. Winstanley



**Please reply to:** Sarah Clarke

Community Safety

c/o Town Hall

Castle Circus

Torquay TQ1 3DR

**My ref:** PA0129

**Your ref:** PA0129

**Telephone:** 01803 208025

**E-mail:** [licensing@torbay.gov.uk](mailto:licensing@torbay.gov.uk)

**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

**Date:** 27 May 2022

Dear Miss Winstanley,

#### **Notice under Section 132A (4) of the Licensing Act 2003 - Suspension or Revocation of Personal Licence PA0129**

I write to advise you that the Licensing Authority is considering suspending (for a period not exceeding six months) or revoking your Personal Licence following receipt of information that on 27 April 2022, you were convicted of a relevant offence under Schedule 4 of the Licensing Act 2003.

We are aware the conviction relates to an offence committed under the Road Traffic Act 1988 (c.52) (b) Section 4 (driving etc. a vehicle when under the influence of drink or drugs). We understand the conviction will be spent on 26 June 2023.

You are entitled to make representations to the Licensing Authority about this Notice regarding the following:

- (a) the relevant offence that has caused the licensing authority to issue the notice,
- (b) any decision of a court under section 129 or 130 in relation to the licence, and
- (c) any other relevant information (including information regarding your personal circumstances).

Representations must be made within the period of 28 days beginning with the date the Notice is issued (27 May 2022).

Please be advised, we have sent a copy of this notice to the address provided to us by the Police – this being [REDACTED] If you are no longer resident at the [REDACTED] address, please can you confirm this in writing to the Licensing Authority as a matter of priority. As a personal licence holder, you have a duty

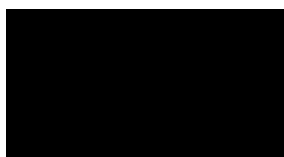
under section 127 of the Licensing Act 2003 to inform the Licensing Authority of any change of address and a person commits an offence if s/he fails without reasonable excuse to comply with this requirement. A person found guilty of an offence under this section is liable on summary conviction to a fine not exceeding Level 2 on the standard scale.

You are also subject to a duty under section 132 of the same Act to notify the Licensing Authority as soon as reasonably practicable after receiving a conviction for a relevant offence, giving us a notice containing details of the nature and date of the conviction and any sentence imposed in respect of it. A person commits an offence if s/he fails without reasonable excuse to comply with this requirement. A person found guilty of an offence under this section is liable on summary conviction to a fine not exceeding Level 2 on the standard scale.

We will write to you again following the end of the 28-day representation period to confirm the Licensing Authority's decision.

If you would like to discuss this letter or if you wish to surrender your personal licence, please contact me by email or telephone.

Yours sincerely,



Sarah Clarke  
**Interim Licensing Manager**

**Appendix 3**

**Copy of email notification from Devon and Cornwall Police of Conviction received by Ms. D.J. Winstanley**

**From:** SMART Julie 50403 <[Julie.SMART@devonandcornwall.pnn.police.uk](mailto:Julie.SMART@devonandcornwall.pnn.police.uk)>  
**Sent:** 05 May 2022 12:24  
**To:** Clarke, Sarah <[Sarah.Clarke@torbay.gov.uk](mailto:Sarah.Clarke@torbay.gov.uk)>  
**Cc:** Cox, Steve <[Steve.Cox@torbay.gov.uk](mailto:Steve.Cox@torbay.gov.uk)>  
**Subject:** DAVINIA WINSTANLEY

Good afternoon Sarah

The above named is the holder of Personal Licence PA0129.

On 27 April 2022 she was convicted of an offence of driving whilst under the influence of alcohol and was sentenced to the following:

Fine £120  
Costs £85  
Disqualified from driving for an obligatory period of 14 months  
Victim Surcharge £34.

Her conviction will become spent on 26 June 2023.

Our records give her home address as [REDACTED]

Kind regards



**Julie Smart**  
Alcohol Licensing Officer - Torbay



**Prevention Department**

Devon and Cornwall Police, Police Station, South Street, Torquay, TQ2 5EF

\*\*\*\*\*  
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\*\*\*\*\*

## Appendix 4

### Copy of Schedule 4 of the Licensing Act 2003 – List of Relevant Offences

*Licensing Act 2003 (c. 17)* 1  
**SCHEDULE 4 – Personal licences: relevant offences**  
*Document Generated: 2022-07-16*  

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*Changes to legislation: Licensing Act 2003, SCHEDULE 4 is up to date with all changes known to be in force as at and before 16 July 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (View all of Document for details) View outstanding changes*

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## SCHEDULES

### SCHEDULE 4

Section 113

#### PERSONAL LICENCES: RELEVANT OFFENCES

- 1 An offence under this Act.
- 2 An offence under any of the following enactments—
  - (a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing);
  - (b) the Licensing Act 1964 (c. 26);
  - (c) the Private Places of Entertainment (Licensing) Act 1967 (c. 19);
  - (d) section 13 of the Theatres Act 1968 (c. 54);
  - (e) the Late Night Refreshment Houses Act 1969 (c. 53);
  - (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);
  - (g) the Licensing (Occasional Permissions) Act 1983 (c. 24);
  - (h) the Cinema Act 1985 (c. 13);
  - (i) the London Local Authorities Act 1990 (c. vii).
- [<sup>2A</sup> An offence under the Public Health (Minimum Price for Alcohol) (Wales) Act 2018.]

#### Textual Amendments

- F1** Sch. 4 para. 2A inserted (23.2.2018) by Public Health (Minimum Price for Alcohol) (Wales) Act 2018 (mow 5), m. 2(6), 28(2) (with s. 25); S.I. 2020/173, reg. 2(b)

- 3 An offence under the Firearms Act 1968 (c. 27).
- 4 An offence under section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5 An offence under any of the following provisions of the Theft Act 1968 (c. 60)—
  - (a) section 1 (theft);
  - (b) section 8 (robbery);
  - (c) section 9 (burglary);
  - (d) section 10 (aggravated burglary);
  - (e) section 11 (removal of articles from places open to the public);
  - (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
  - (g) section 13 (abstracting of electricity);
  - (h) section 15 (obtaining property by deception);
  - (i) section 15A (obtaining a money transfer by deception);

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- (j) section 16 (obtaining pecuniary advantage by deception);
  - (k) section 17 (false accounting);
  - (l) section 19 (false statements by company directors etc.);
  - (m) section 20 (suppression, etc. of documents);
  - (n) section 21 (blackmail);
  - (o) section 22 (issuing stolen goods);
  - (p) section 24A (dishonestly retaining a wrongful credit);
  - (q) section 25 (going equipped for stealing etc.).
- 6 An offence under section 7(2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7 An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) (production of a controlled drug);
  - (b) section 4(3) (supply of a controlled drug);
  - (c) section 5(3) (possession of a controlled drug with intent to supply);
  - (d) section 8 (permitting activities to take place on premises).
- 7A** An offence under any of the Immigration Acts.]

**Textual Amendments**

**F1** *Sec. 4 para. 7A inserted (6.4.2017) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 4 para. 21 (with Sch. 4 para. 36); S.I. 2017/388, reg. 2(b)*

- 8 An offence under either of the following provisions of the Theft Act 1978 (c. 31)—
- (a) section 1 (obtaining services by deception);
  - (b) section 2 (evasion of liability by deception).
- 9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2)—
- (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.);
  - (b) section 170B (taking preparatory steps for evasion of duty).
- 10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c. 7)—
- (a) section 8G (possession and sale of unmarked tobacco);
  - (b) section 8H (use of premises for sale of unmarked tobacco).
- 11 An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under section 18 or 19 of that Act).
- 12 An offence under the Firearms (Amendment) Act 1988 (c. 45).
- 13 An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)—
- (a) section 107(1)(d)(iii) (public exhibition in the course of a business of articles infringing copyright);
  - (b) section 107(3) (infringement of copyright by public performance of work etc.);

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- (c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent);
  - (d) section 297(1) (fraudulent reception of transmission);
  - (e) section 297A(1) (supply etc. of unauthorised decoder).
- 14 An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52)—
- (a) section 3A (causing death by careless driving while under the influence of drink or drugs);
  - (b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);
  - (c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).
- [<sup>(d)</sup> section 6(6) (failing to co-operate with a preliminary test).]

**Textual Amendments**

**F9** Sch. 4 para. 14(d) inserted (25.4.2012) by *Police Reform and Social Responsibility Act 2011* (c. 13), s. 123(2), 157(1) (with s. 123(5)); S.I. 2012/1129, art. 2(e)

- 15 An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol—
- (a) section 14 (selling food or drink not of the nature, substance or quality demanded);
  - (b) section 15 (falsely describing or presenting food or drink).
- 16 An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
- 17 An offence under the Firearms (Amendment) Act 1997 (c. 5).
- <sup>(18)</sup> A sexual offence, being an offence —
- (a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003<sup>(18)</sup>, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));  
[ listed in Schedule 3 to the Sexual Offences Act 2003 (sexual offences for the purposes of notification and orders);]  
<sup>(aa)</sup>
  - (b) an offence under section 8 of the Sexual Offences Act 1956 (intercourse with a defective);
  - (c) an offence under section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).]

**Textual Amendments**

**F4** Sch. 4 para. 18, 19 substituted (16.9.2005) by *The Licensing Act 2005 (Personal Licences: relevant offences) (Amendment) Order 2005* (S.I. 2005/2366), art. 2

**F8** 2005 c. 44.

**F6** Sch. 4 para. 18(aa) inserted (31.1.2017 for specified purposes, 6.4.2017 in so far as not already in force) by *Police and Crime Act 2017* (c. 9), ss. 159(2), 163(1)(5)(e); S.I. 2017/599, reg. 3(e)

- <sup>(19)</sup> A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which



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is required to be charged as arson (whether or not it would otherwise fall within this definition).]

**Textual Amendments**

**F7** Sch. 4 para. 18, 19 substituted (16.9.2005) by *The Licensing Act 2005 (Personal licence: relevant offences) (Amendment) Order 2005* (S.I. 2005/2366), art. 2

**[<sup>19A</sup>** An offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences).]

**Textual Amendments**

**F8** Sch. 4 para. 19A inserted (31.1.2017 for specified purposes, 6.4.2017 in so far as not already in force) by *Policing and Crime Act 2017* (c. 3), ss. 139(3), 183(1)(5)(c); S.I. 2017/399, reg. 3(e)

**[<sup>19B</sup>** An offence listed in Part 3 of Schedule 15 to the Criminal Justice Act 2003 (specified terrorism offences).]

**Textual Amendments**

**F9** Sch. 4 para. 19B inserted (12.4.2019) by *Counter-Terrorism and Border Security Act 2019* (c. 3), s. 27(3), Sch. 4 para. 8 (with s. 25(3)(4))

**20** An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).

**[<sup>21</sup>** An offence under section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.]

**Textual Amendments**

**F10** Sch. 4 para. 21 inserted "after paragraph 20" (1.9.2007) by *Gambling Act 2005* (c. 19), ss. 356, 358, Sch. 16 para. 20(4) (with ss. 352, 354, Sch. 16 para. 21); S.I. 2006/3272, art. 2(4)

**[<sup>22</sup>** An offence under the Fraud Act 2006.]

**Textual Amendments**

**F11** Sch. 4 para. 21 inserted (15.1.2007) by *Fraud Act 2006* (c. 35), ss. 14(1), 15(1), Sch. 1 para. 34; S.I. 2006/3200, art. 3

**F12** Sch. 4 para. 21 is renumbered as para. 22 (in force in accordance with art. 2 of the amending instrument) by *The Licensing Act 2005 (Amendment of Schedule 4) Order 2007* (S.I. 2007/2973), art. 2

**[<sup>22ZA</sup>** An offence under any of the following provisions of the Violent Crime Reduction Act 2006—

- (a) section 28 (using someone to mind a weapon);
- (b) section 36 (manufacture, import and sale of realistic imitation firearms).]

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**Textual Amendments**

**F13** Sch. 4 para. 22A inserted (31.1.2017 for specified purposes, 6.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), ss. 189(4), 183(1)(5)(e); [S.I. 2017/399](#), reg. 3(e)

**[<sup>22A</sup>22A]** An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.

**Textual Amendments**

**F14** Sch. 4 para. 22, 23 inserted (26.5.2008) by virtue of [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1), Sch. 3 para. 71 (with reg. 28(2)(3))

**F15** Section 4 para. 22 renumbered as Sch. 4 para. 22A (25.4.2012) by [Police Reform and Social Responsibility Act \(2011 c. 13\)](#), s. 123(3); [S.I. 2012/1129](#), art. 2(d)

**23** An offence under regulation 8, 9, 10, 11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.]

**Textual Amendments**

**F14** Sch. 4 para. 22, 23 inserted (26.5.2008) by virtue of [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1), Sch. 3 para. 71 (with reg. 28(2)(3))

**[<sup>23A</sup>23A** An offence under any of the following provisions of the Psychoactive Substances Act 2016—  
(a) section 4 (producing a psychoactive substance);  
(b) section 5 (supplying, or offering to supply, a psychoactive substance);  
(c) section 7 (possession of psychoactive substance with intent to supply);  
(d) section 8 (importing or exporting a psychoactive substance).]

**Textual Amendments**

**F16** Sch. 4 para. 23A inserted (26.5.2016) by [Psychoactive Substances Act 2016 \(c. 2\)](#), s. 63(2), Sch. 3 para. 5(5); [S.I. 2016/253](#), reg. 2

**[<sup>23B</sup>23B** An offence listed in section 41 of the Counter-Terrorism Act 2008 (terrorism offences).]

**Textual Amendments**

**F17** Sch. 4 para. 23B inserted (31.1.2017 for specified purposes, 6.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), ss. 139(3), 183(1)(5)(e); [S.I. 2017/399](#), reg. 3(n)

**[<sup>24</sup>24** An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence.

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**Textual Amendments**

**F18** Sch. 4 paras. 24-26 inserted (25.4.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), m. 123(4), 157(1) (with a. 123(5)); S.I. 2012/1128, art. 2(d)

**25** An offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence.

**Textual Amendments**

**F18** Sch. 4 paras. 24-26 inserted (25.4.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), m. 123(4), 157(1) (with a. 123(5)); S.I. 2012/1128, art. 2(d)

**26** The offence at common law of conspiracy to defraud.]

**Textual Amendments**

**F18** Sch. 4 paras. 24-26 inserted (25.4.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), m. 123(4), 157(1) (with a. 123(5)); S.I. 2012/1128, art. 2(d)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 5A inserted by 2015 c. 20 s. 67(2)Sch. 17
- s. 2(LA) inserted by 2015 c. 20 s. 67(1)
- s. 10(4)(e) and word inserted by 2011 c. 13 s. 121(3)(b)
- s. 140(2)(e) inserted by 2015 c. 20 s. 67(4)(b)
- s. 141(2)(e) inserted by 2015 c. 20 s. 67(5)(b)
- s. 143(2)(e) inserted by 2015 c. 20 s. 67(6)(b)
- s. 144(2)(e) inserted by 2015 c. 20 s. 67(7)(b)
- s. 147A(4)(e) inserted by 2015 c. 20 s. 67(8)(b)
- s. 153(4)(d) inserted by 2015 c. 20 s. 67(9)(b)
- s. 197(3)(osa) inserted by 2015 c. 20 s. 67(12)(a)
- s. 197A197B inserted by 2011 c. 13 s. 121(2)