

Torbay Safeguarding Children Board

Operating the
Licensing Act 2003 Objective:
Protection of Children from Harm

Issued: June 2007

Updated: April 2011

TSCB12

Working together to ensure every child stays safe in Torbay

Licensing Act 2003

Guidance to responding to New Premise License application and
Variation applications in relation to the Licensing Objective

‘Protection of Children from Harm’

1. Responsible Authority

In Torbay the responsible authority will be the Torbay Safeguarding Children's Board (TSCB). The nominated representative of the TSCB will be:

Lisa Jennings
Torbay Safeguarding Children Board
Room 2.40,
Oldway Mansion,
Torquay Road,
Paignton
TQ3 2TE

Tel: 01803 208583

Emails: lisa.jennings@torbay.gov.uk or tscb@torbay.gov.uk

All completed applications forms and other related paper work should be sent to Lisa Jennings marked "Licensing Application".

2. Definition of children

It should be noted that as far as the Protection of Children is concerned this applies to all young people until their 18th birthday.

3. Guidance for completion of application forms

In order for the application to meet the licensing objective the applicant will need to show that they have identified any 'risk factors' that apply to their application and explained their intended 'control measures'. Below are a list of Risk Factors and Control Measures provided by LACORS that you will need to consider in your application and address if they apply to you. We will make comment on your application based upon your identification of 'risk factors' and 'control measures'.

RISK FACTORS	CONTROL MEASURES	X or ✓
<p>Any entertainment or services (regulated or otherwise are/or include that of an adult or sexual nature</p>	<p>People under 18 not admitted or taking part in the entertainment/services (including staff)</p> <p>Measures for ensuring non-admission such as door supervision, age checks (including staff)</p> <p>Sufficient screening of the relevant entertainment/services from view of those under 18 (including staff) e.g. smoked windows, doors closed)</p> <p>Clear signage that entertainment/ services are taking place which are not suitable for under 18's.</p> <p>Specific measures agreed as regard the specific type of entertainment (e.g. lap dancing clubs).</p>	
<p>Entertainment or services include strong or offensive language.</p>	<p>People under 18 not admitted (including staff).</p> <p>People under 18 not within hearing distance. Sound proofing may be required. Measure for ensuring non-admission such as door supervision, age checks (including staff).</p> <p>Clear signage that entertainment/ services are taking place which are not suitable for under 18's.</p>	
<p>Convictions for underage sales of alcohol.</p>	<p>People under 18 not admitted (including staff)</p> <p>Evidence of suitable staff training and age identification scheme in place and adhered to. Signs provided, informing customers that under 18's will not be served and that proof of identification and age may be required.</p>	

Reputation for underage drinking.	<p>People under 18 not admitted (including staff)</p> <p>Evidence of suitable staff training and age identification scheme in place and adhered to.</p> <p>Signs provided, informing customers that under 18's will not be served and that proof of identification and age may be required. Tighter restrictions of under 18's.</p>	
Known association with drug taking or dealing.	<p>People under 18 not admitted (including staff)</p>	
Strong element of gambling on the premises.	<p>People under 18 not admitted (including staff). Measures put in place to screen off the gambling activity from children.</p>	
Children in performances.	<p>Suitability and number of supervisors including care of children as they move from stage to dressing room etc. and to ensure that all children can be accounted for in case of an emergency or evacuation.</p> <p>Suitability of the venue, for example can it safely accommodate the intended number of children. Fire safety. Ensure that all chaperones and crew receive instruction on the fire procedures applicable to the venue prior to the arrival of any children.</p> <p>Special effects. Some may be inappropriate and may trigger adverse reactions in children particularly. E.g. flashing lights, dry ice, smoke etc. (1)</p>	
Entertainment aimed at children.	<p>Suitability and number of supervisors.</p> <p>Measures to ensure that seating/standing arrangements are suitable for children.</p>	
Concerns regarding admitting children to films which have been classified as beyond suitability for children's age.	<p>Staff training and age identification procedures. Signage to explain that children will not be admitted to film showings which are not suitable for their age group, and that adults should not purchase tickets on behalf of children.</p>	

Previous known concerns about danger to children at the premises.	Measures to counter these specific dangers.	
Licence applicant or other people present at the premises.	Measures to counter these specific dangers.	
Child-orientated premises located close to adult orientated premises.	Identification of any risks and control measures in place.	
History of lack of suitability of age identification procedures used on the premises.	<p>People under 18 not admitted. Evidence of suitable staff training and age identification scheme in place and followed.</p> <p>Signs providing informing customers that sales will not be made to under 18's and that proof of age identification may be required.</p>	
Potential concerns regarding proposed staff: customer and/or staff; children ratios.	Measures to address these concerns.	
Potential concerns regarding qualifications of staff employed to look after children.	Potential requirement for police checks for specific staff. Evidence of suitable training/experience.	
Risk of children visiting the premises unaccompanied.	Evidence of training and procedures to deal with such situations where they are deemed to be of potential harm to children	
Living accommodation for children on the premises.	Assessment of potential risks and control measures in place.	
Likelihood of premises attracting extremes of age groups.	Assessment of potential risks and control measures in place.	
Close proximity of premises to 'child sensitive' properties.	Assessment of potential risks and control measures in place.	
Suspected lack of welfare facilities for children on the premises i.e. toilets, first aid.	Welfare facilities provided.	

There is a risk of physical, moral or psychological harm to children.	Assessment of potential risks and control measures in place.	
Children under 18 employed on premises where there is evidence of binge/underage drinking, drug dealing/ taking, significant gambling or entertainment/services of an adult/sexual nature provided.	Restriction of such employment. Persons under 18 years not admitted.	
Additional items to be detailed:		

(4) Children’s Access to premises

Mandatory and Government ‘advised’ conditions

It should be noted that there is a mandatory condition set-out in Section 20 of the Licensing Act 2003 which Licensing Authorities must attach to each premises licence which authorises the exhibition of films (see also Section 74 as regards Clubs Premises Certificate). It is suggested that the responsibility for attaching this condition lies with the Licensing Officer in each Licensing Authority.

Section 20 Mandatory condition: exhibition of films

- (1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
- (2) Where the film classification body is specified in the licence, unless subsection (3) (b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
- (3) Where-
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
 admission of children must be restricted in accordance with any recommendation made by that licensing authority.
- (4) In this section –
 “children” means persons aged under 18; and

“film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

There are also 5 conditions which the Government advises, via its Statutory Guidance (see Annex H), are attached to licenses (ADSS/LACORS emphasise that colleagues ensure to read the precise wording of the Statutory Guidance as the following is a summary only):

1. Premises which are open to the public and which sell alcohol for consumption off the premises (e.g. off licences/supermarkets) should be presumed not to allow children under 12 onto their premises after 11pm unless accompanied by an adult (1). It needs to be noted that this must not be a blanket condition however and if the licence applicant provides reasons for not needing to comply with this requirement then the Licensing Authority may consider their reasons sufficient and not attach the condition.
2. Where the Licensing Authority is to make recommendations on the admission of children to films (i.e. instead of a film classification body) then the operator must submit the film to the authority 28 days before exhibition so as to provide sufficient time for the Licensing Authority to classify the film.
3. Where films are classified by either the Licensing Authority or a film classification body there should be the following classification:

U = Universal. Suitable for audiences aged four years and over.

PG = Parental Guidance. Some scenes may be unsuitable for young children.

12A. Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.

15. Passed only for viewing by persons aged 15 and over.

18. Passed only for viewing by persons aged 18 and over.

4. Immediately before each exhibition of the film which has been passed by the British Board of Film Classification, there should be a statement, for at least 5 seconds, which reproduces the certificate of the Board; or for a trailer, then a statement approved by the Board indicating the classification of the film.
5. A condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. An example of the wording of such a notice is provided in the Statutory Guidance.

(5) Staff Training

In addition to identified training there should be evidence that there is training on drug awareness, health and safety and the reporting of concerns when staff suspect a child is being abused or neglected. In respect of the latter the Manager of the premises should refer the concerns to the local social services team.

Process of the TSCB Representative responding to Licence applications

1. Application sent to the Licensing Authority and simultaneously to the TSCB representative as consultee for the protection of children from harm objective.
2. The Licensing Authority either accept or reject the application and notify the TSCB representative.
3. If the application is accepted by the Licensing Authority, the TSCB representative will consider the application using the LACORS as a risk assessment.
4. The license Holder's name will be checked against Children's Services information systems to ensure they are not listed as a person who is a 'Risk to Children'.
5. When the LACORS guidance indicates a Risk Factor that is not addressed, or not satisfactorily addressed a representation will be requested (see appendix 1). Subsequently a discussion with the applicant will be attempted with a view to seeking agreement on how the issue may be addressed. The TSCB representative will either attend the Licensing Committee or provide a report to explain the reasons for their representation.

Memorandum

To: Licensing Team	From :	Torbay Safeguarding Children Board
c.c	Contact :	Lisa Jennings
c.c.	Ext :	208583
c.c	My Ref :	
For the attention of: Licensing	Your Ref :	
	Date :	

Subject: Application for New Premises Licence– Licensing Act 2003

Premises Name and Address:

- a) I have no comments to make on the above application
- b) The application does not meet the following licensing objectives:
 - i) Prevention of crime and disorder
 - ii) Protection of children from harm
 - iii) Public safety
 - iv) Prevention of nuisance

because:- (please list those aspects of the application or variation that give you reason for concern and why you have these concerns).

Signed:

Date: