

# **Torbay Council's Licensing “Statement of Principles”**

**Yellow denotes changes**

***DRAFT***



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**The licensing policy was ratified by full council on ....**

## **Torbay Councils Statement of Principles 2011 Licensing Act 2003**

### **Background**

Torbay Council is designated as a 'Licensing Authority' for the purposes of the Licensing Act 2003.

This document is Torbay Councils "Statement of Principles", made under Section 5 of the Licensing Act 2003, and supports Torbay Council's vision for a strong and prosperous bay.

Torbay is situated on the South Devon coast, on the south west peninsular of England and comprises the three towns of Torquay, Paignton, and Brixham. Torbay is an outstanding coastal location including 22 miles of coastline which has shaped its economic and social development over time. Historically the local economy has focused on tourism, fishing and to a lesser extent manufacturing activities.

The three towns of Torbay and its environs have a combined population of 134,000, making Torbay the second largest conurbation to the south west of Bristol. Tourism in Torbay accounts for 1.45 million staying visitors plus 3.8 million day visitors, generating a direct and indirect spend of £442 million per annum. This represents around one third of the areas wealth and also one third of its jobs.

Torbay Council is committed to a broad corporate vision for Torbay and through the Torbay Strategic Partnership the Council has formulated a Community Plan, built around the principles of creating and developing:

- A prosperous area known to be a great place to live, learn and grow up in.
- An area in which we compete on a world stage in traditional industries of tourism and fishing.
- An area where communities know and support each other, and enjoy some of the best services in England.
- An area that widens opportunities provides high quality employment and retains our young people in the Bay.
- An area that celebrates the diversity in the three towns, as detailed in the Mayors vision, further information of which can be found at: [www.torbaydevelopmentagency.co.uk](http://www.torbaydevelopmentagency.co.uk)

The community plan has four key themes at its core, 'Pride in the Bay', 'Stronger Communities', 'Learning and Skills for the Future' and the 'New Economy'. The Councils primary resolve is to promote community and economic prosperity and this "Statement of Principles" will have due regard to the Councils ambitions and aspirations for Torbay.

**Torbay Council, Town Hall, Castle Circus, Torquay, TQ1 3DS**

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

This statement is set out in the following sections:

- Section 1** The Guiding Principles that will direct the Council in making its Licensing decisions
- Section 2** Primary considerations when an application is made.
- Section 3** Considerations when an application is heard by a Licensing Committee
- Section 4** The Councils rationale for issuing licences.
- Section 5** The role and influence of Representations.
- Section 6** The way in which the Council will communicate and enforce requirements.

**If you require this in a different format or language, please contact the Licensing Team on 01803 208126 or at [Licensing@torbay.gov.uk](mailto:Licensing@torbay.gov.uk)**

## **STATEMENT OF LICENSING POLICY**

This statement of licensing policy relates to the licensing of: -

- (i) the sale by retail of alcohol
- (ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- (iii) the provision of regulated entertainment to the public, to club members or with a view to profit
- (iv) The supply of hot food and/or hot drink between 11.00pm and 5.00am.

And is about regulating the carrying on of licensable activities on licensed premises, vehicles, vessels, events, qualifying clubs and at temporary events within the terms of the Act.

This **third** statement is made following consultations with: -

- a) Residents and businesses of Torbay
- b) Bodies representing businesses
- c) Holders of Premises Licences and Club Premises Certificates
- d) Bodies representing existing registered clubs
- e) Bodies representing holders of existing premises licences and personal licences
- f) The Chief Officer of Devon and Cornwall Police
- g) The Chief Officer of Devon and Somerset Fire and Rescue Service
- h) Torbay Care Trust and Local Health Providers
- i) Torbay Council : Children's Services
- j) Torbay Council : Planning, Environmental Health and Highways Authorities
- k) The Torbay Safer Communities Partnership
- l) The Maritime and Coastguard Agency
- m) Faith groups via Torbay Interfaith Forum and the Street Pastors
- n) Torbay Development Agency
- o) Torbay Town Centres Company
- p) English Riviera Tourism Company

Since the 24<sup>th</sup> November 2005 Torbay Council has been the Licensing Authority for the purposes of the Licensing Act 2003 (the Act). Its responsibilities include the administration and issue of Premises Licences, Personal Licences, Temporary Event Notices, Club Premises Certificates and Provisional Statements. In addition it is responsible, with the Police for the enforcement of the legislation, in ensuring compliance with both the conditions laid out on Premises Licences and Club Premises Certificates as well as the Act itself.

Torbay Council also has a significant role in working with its partners and with the trade to address issues, arising out of the late night economy.

## **SECTION 1 - The Guiding Principles that will direct the Council in making Licensing decisions**

- 1.1 Its duties, as the Licensing Authority, set out in the Act and its responsibility to promote the four Licensing Objectives:-

**The Prevention of Crime and Disorder;**  
**The Promotion of Public Safety;**  
**The Prevention of Public Nuisance;**  
**The Protection of Children from Harm.**

- 1.2 The need to treat each Licensing Objective with equal importance.
- 1.3 That this "Statement of Principles" sets out a general approach to making licensing decisions, it must not ignore or be inconsistent with provisions in the Act. For example, a "Statement of Principles" must not undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 1.4 That this "Statement of Principles" should not override the right of any person to make Representations on an application or to seek a Review of a licence or certificate where a provision has been made for them to do so in the Act.
- 1.5 That where an application is made and there are no relevant Representations, the application will be granted subject only to conditions reflecting the operating schedule and any mandatory conditions. Where there are relevant Representations, the Licensing Authority, will grant the application unless it is necessary to refuse it or impose a condition in order to promote one or more the Licensing Objectives. Conditions imposed will be reasonable and proportionate
- 1.6 Its responsibilities under Section 17 of the Crime and Disorder Act 1998, and within the strategic aims of the Torbay Community Safety Strategy 2008-11, and do all that is reasonable to prevent crime and disorder in Torbay.
- 1.7 Its responsibilities to individuals under the European Convention on Human Rights, set out by the Human Rights Act 1998, and its statutory role as a Licensing Authority to fulfil the duties and responsibilities vested in it.
- 1.8 Its responsibilities to individuals under the Equality Act 2010, to have regard to the elimination of unlawful discrimination and its duty to promote equality of opportunity regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Act

and replaces previous legislation (such as the Race Relation Act 1976, Disability Discrimination Act 1995).

- 1.9 The Council will aim to provide a joined up service for children which, whatever their background or circumstances, provides the support they need to achieve well being based upon the Every Child Matters outcomes of Stay Safe; Be Healthy, Enjoy and Achieve; have economic wellbeing; and make a positive contribution. The Licensing Authority will have regard to these outcomes when considering decisions under the Licensing Objectives.
- 1.10 That effective licensing can only be achieved by recognising the value of all contributions. The Licensing Authority strongly supports inclusivity and working in partnership with the Police and other Responsible Authorities, local businesses, performers, local people, professionals involved in child protection and all others who can contribute positively to the successful promotion of the four Licensing Objectives. The Licensing Authority encourages membership of local schemes such as Night-Net, Pub watch or Store-Net and values the contribution such schemes make to the fulfilment of the Licensing Objectives.
- 1.11 That its licensing decisions will be taken within the context of all strategies to which it is a signatory and will have regard to the potential impact its decisions may have on those strategies.
- 1.12 The Licensing Authority considers that its licensing decisions can be a key factor in the control of anti-social behaviour. Whilst accepting that it will not use licensing conditions to control anti social behaviour by individuals once they are away from the licensable premises or place, and beyond the direct control of the licensee it does as a matter of Policy expect every holder of a licence issued under this Act to be responsible for minimising the impact of their activities and anti social behaviour by their patrons within the vicinity of their Premises. They will require licence holders to demonstrate that they have taken appropriate action. Any conditions attached to licences will be within the control of the individual licensees and others in possession of relevant authorisations, and will primarily focus on the direct impact of the activities taking place at the Licensed Premises on members of the public living, working or engaged in lawful activity in the area concerned.
- 1.13 That it will not adopt blanket Policies of zoning to fix the trading hours of Licensed Premises. However, where it is necessary to promote one or more of the Licensing Objectives, the Licensing Authority will attach conditions to the Premises Licence to control a Premises trading hours. Such conditions will be imposed where there is supporting evidence to demonstrate necessity.
- 1.14 The Licensing Authority is satisfied, as advised by Devon and Cornwall Police that the night time leisure economy is on occasions subject to some disorder problems and can

lead to noise disturbance in some residential and commercial accommodation areas. Therefore the Licensing Authority has as part of this Policy included a Special Saturation Policy (otherwise known as a Cumulative Impact Policy) where an application for a new Licence, or variation of an existing Licence would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area. This Special Saturation Policy will apply to all Premises in the areas designated in Appendix 1 to this Policy, when the sale of alcohol is proposed and relevant Representations are received from a Responsible Authority or an Interested Party and are upheld as relevant following a hearing.

- 1.15 That Premises which are permitted to provide sales of alcohol for off Premises consumption may be subject to conditions that limit trading hours and restrict types and minimum quantities of alcohol where either the Premises or the area in which the Premises intends to trade, are known to be a focus for disorder and disturbance. A decision to impose such conditions will be subject to a relevant Representation being received and where there is supporting evidence to demonstrate necessity.
- 1.16 That the Act neither prohibits children gaining access to Licensed Premises, nor imposes or permits the imposition of conditions to the effect those children must be admitted to those premises. These matters will be left to the discretion of the licensee or club unless the need to protect children from harm necessitates the imposition of conditions.
- 1.17 In the case of age classifications for films, the Policy of the Licensing Authority is to follow the recommendations of the British Board of Film Classification for most purposes, whilst retaining the right to allocate a classification of its own to a particular film or to modify the advisory information proposed for use in connection with that film or the mechanism proposed for communicating that information.
- 1.18 That any necessary decisions in relation to planning legislation will be made completely independently of those made in respect of Licensing Act applications.
- 1.19 The Licensing Committee will receive regular reports on decisions made by Officers under the provisions of the scheme of delegation so that it maintains an overview of the general situation.
- 1.20 The Licensing Authority will actively encourage a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays. Premises specifically catering for young people in a safe, alcohol-free environment should be encouraged and promoted for the wider cultural benefit of the community in Torbay. The Licensing Authority will seek to monitor the impact of licensing on the provision of regulated entertainment and particularly on live music and dancing in Torbay. Some departments within Torbay



Council have obtained Licenses for specified public open spaces and Premises so that the benefit of any Licence granted can be conveyed by the licence holding department to authorised entertainers and performers within the event site. The Licensing Committee will consider such applications from an entirely neutral standpoint. It will also consider carefully any Representation that the licensing regime is adversely affecting the provision of live music and dancing as regulated entertainments in Torbay and will impose, in that respect, only restrictions that are necessary, proportionate and reasonable as licensing conditions.

1.21 That proper integration with local crime prevention, planning, transport, tourism and cultural strategies is essential to assist in the reduction of public disorder and disturbances and will ensure that future local transport plans reflect the need to disperse people from town centres swiftly and safely, particularly late at night, so as to avoid concentrations which may produce disorder and disturbance.

1.22 That licensing insofar as it seeks: -

- a) To control the physical safety of people using a location, does not seek to control public health, which is subject to other controls.
- b) To protect children, includes their protection from moral, psychological and physical harm.

1.23 The Council does not condone the use of illegal drugs but recognises the importance of the Home Office document 'Safer Clubbing'. It does aim through the licensing process to: -

- a) **Prevent** drug dealing in Licensed Premises.
- b) **Minimise** drug availability and their use.
- c) **Safeguard** all the public attending events by requiring, through imposition of appropriate licence conditions, the provision of a secure and safe environment for such events to take place.

1.24 The **Licensing Authority** commends to all applicants seeking to supply alcohol, 'The Portman Group Code of Practice on the Naming, Packaging and Promotion.

1.25 That clear enforcement protocols for licensing and associated activities are essential. Torbay Council works closely with the **Police, Fire and other partners and through its Safety Advisory Group to establish and review Protocols that** ensure an efficient deployment of Police, Council Officers and others engaged in enforcement of licensing and other relevant legislation, in order to ensure that resources are targeted at problem and high risk Premises and events.

- 1.26 That this licensing Policy will be reviewed at least once in every three years by the Licensing Committee and the effect of any orders in existence to control drinking in the streets will be reviewed as part of that process. The Special Saturation Policy for normally refusing new or the variation of an existing Premises Licences can be adopted or reviewed only by the Licensing Committee. Such a review will take place every three years after the initial adoption or sooner if the Licensing Committee requires it, to see whether it has the effect intended and is still needed.

## SECTION 2 - Primary considerations when an application is made

### The Licensing Authority will: -

- 2.1 Invite applications for a Licence whether for single or multiple permissions and will consider each application:-
  - a) on its own merits,
  - b) in accordance with the Act, any subsequent amendments and supporting Regulations,
  - c) with regard to Guidance issued under Section 182 of the Act,
  - d) under the terms of this Policy,
  - e) within the statutory timescale once a valid application is made.
- 2.2 Require the Applicant to submit an Operating Schedule that properly addresses the impact their application may have on their neighbours or their surrounding communities, to ensure that each of the relevant Licensing Objectives are promoted. This is particularly relevant in the following circumstances.
  - (i) Crime and disorder arising out of the night time economy;
  - (ii) Noise from patrons and regulated entertainment where Premises are in close proximity to residential properties and have later opening times;
  - (iii) Public safety matters for higher risk activities and one off events; and
  - (iv) Public safety matters arising out of unmanaged occupancy levels. (See Appendix three for further information)
- 2.3 Consider in particular the specific proposals regarding the requested licensing hours. It is important to note that “opening hours”, the times when premises are open to the public, are not necessarily identical to the hours during which licensable activities may take place.
- 2.4 Recommend, in the case of applications for Premises Licences or Club Premises Certificates that the activity sought by the applicant has a lawful planning use. Where an application is submitted to permit licensable activities, the Applicant will need to be mindful of other restrictions that may affect the use of such a grant e.g. where a terminal hour has been set by planning permission for commercial use of the Premises. Where these hours are different to the licensing hours, it will be for the Applicant to ensure compliance of the earlier time’.
- 2.5 Expect Applicants to indicate whether or not the area to be licensed includes or comprises part of the public highway. This must be included on any plan submitted as part of an application. It is the Policy of Torbay Council to encourage a continental café culture which makes a positive contribution to the street - scene and to the vitality of shopping and tourist areas bringing life, colour and interest on to the street. The

Licensing Authority may grant permission under Section 115E of the Highways Act 1980 for an applicant to use the public highway outside Premises for placing tables and chairs but the use of such an area will be subject to separate application, requirements and conditions under provisions of the Highway Act 1980.

2.6 Expect as '**Special Risk Entertainment**' events that incorporate any of the following activities for the entertainment or attraction of the public:-

- a) hypnotism (as defined by the Hypnotism Act 1952);
- b) striptease, lap dancing or any similar performance (see note below \*);
- c) the installation of strobe or laser equipment;
- d) the use of special effects such as pyrotechnics (Fireworks) or the introduction to any area occupied by the public of naked flame or any material, vapour, liquid, foam or novelty foodstuff;
- e) the use of any temporary structure or staged area;
- f) sporting events that carry higher than normal risks, e.g. cage fighting;

and require that details of any 'Special Risk Entertainment' to be provided and clearly specified in the submitted Operating Schedule.

\* The Policing and Crime Act 2009 became law in November 2009, amending Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 so as to incorporate 'sexual entertainment venues'. Under this Act as amended, Premises offering lap dancing or any live performance or display of nudity on more than 11 occasions within a 12 month period, will be required to obtain a sex entertainment venue licence from this Authority to authorise such activity. In light of this amendment, a Sex Entertainment Venue Policy will be drawn up and approved by a Licensing Committee.

### SECTION 3 - Additional considerations when an application is heard by a Licensing Committee

Where there are no relevant Representations, the application will be granted as applied for, subject to conditions which reflect the Operating Schedule and any mandatory conditions. Where there is a relevant Representation, the application will usually proceed to a contested hearing, following which the Licensing Authority may take such steps as are necessary to promote the Licensing Objectives. In considering the application, the Licensing Authority will have regard to the matters set out below. In order to reduce the risk of relevant Representations and the cost and delay of a contested hearing, Applicants are strongly recommended to consult with the relevant Responsible Authority, consider the matters set out below and incorporate them as necessary into their Operating Schedule

Where there have been relevant Representations the Licensing Authority will consider the content of any application with respect to the following matters: -

#### 3.1 THE PREVENTION OF CRIME AND DISORDER

- a) The adequacy of measures proposed to prevent **crime and disorder** and the history of any previous relevant enforcement action, particularly in relation to the use of the Premises for: -
  - (i) the sale and distribution of Controlled Drugs and the laundering of the proceeds of drugs crime;
  - (ii) the sale and distribution of illegal firearms;
  - (iii) the evasion of copyright in respect of pirated films and music;
  - (iv) the under-age purchase and consumption of alcohol;
  - (v) prostitution or for the sale of unlawful pornography;
  - (vi) use by organised groups of paedophiles to groom children;
  - (vii) the base for the organisation of criminal activity;
  - (viii) the organisation of racist activity or the promotion of racist attacks;
  - (ix) unlawful gaming, gambling and betting;
  - (x) The sale of smuggled tobacco and alcohol.
- b) The measures the Applicant has taken or proposes to take to:-
  - (i) **Prevent** the consumption or supply of illegal drugs, including any entry and search procedures and the demonstration of a positive commitment to the deployment, when requested by the Police, of the Ion track Itemiser Drug Detection Machine at the Premises or event.
  - (ii) **Improve** security or public safety, by using, for example CCTV of an evidential standard which is continually monitored and the recordings are retained for 14 days; the employment of specified numbers of SIA registered

door supervisors for security duties and / or stewards for general public service or management, who shall be visible at all times and locations by means of clearly identifiable reflective over garments with the addition of personal arm band identification and the adoption of a 'safe capacity' necessary for the **promotion** of public safety or the prevention of disorder on the premises.

- (iii) **Prevent** the use of glass bottles and drinking glasses being used as weapons and inflicting more serious harm during incidents of disorder. Consideration needs to be given on the location and style of the Premises/event, the times of opening, as well as considerations such as outside roof terraces, indoor sporting events, and televised sporting events.
- (iv) **Facilitate** effective communications by means of text or radio pagers or other means to enable instant contact with local Police, CCTV Monitoring Room or between Licensed Premises in a locality to warn of situations of disorder or potential disorder.
- (v) **Demonstrate** a responsible approach to alcohol sales by ending alcohol sales by a time specified in the application that is sometime before the Premises themselves are closed, and by not taking part in heavily 'discounted drinking' promotions. At the start of 2010, Parliament approved The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. This attaches two conditions to all Premises Licences and Club Premises Certificates where alcohol is sold or supplied on the Premises. (See Appendix four)
- (vi) **Reduce** the risk of excessive alcohol consumption by providing and promoting reasonably priced soft drinks and making water available for free at all bars.
- (vii) **Reducing** the risk of crime and disorder being caused by street drinkers, who are or appear to be alcohol dependant. This may be particularly relevant to Premises that are permitted to provide sales of alcohol for consumption of the Premises. Such Premises may be required not to stock or sell high strength or types of cheap ciders, beers or lagers or to sell single unit items, i.e. cans that are split from an original multi pack or other such packaging.
- (viii) **Manage** the Premises safely by the provision of sufficient SIA registered door staff by way of risk assessment (See Appendix three for further information)
- (ix) **Impose**, as appropriate, a requirement for keeping of a daily premises register of SIA registered door stewards (See Appendix three for further information)

- (x) **Impose**, as appropriate, an incident log to record telephone calls, complaints and refusals for entry. (See Appendix three for further information)
  - (xi) **Ensure** that the Premises Licence Holder or the Designated Premises Supervisor takes all reasonable steps to ensure that staff employed at the Premises are, trained so that they understand the requirements of both the Premises Licence/Club Premises Certificate and the broad provisions of the Licensing Act 2003.
  - (xii) **Ensure** that the Premises Licence Holder or the Designated Premises Supervisor takes all reasonable steps to ensure that staff employed at the Premises do not carry out, arrange or participate in any irresponsible drinks promotions, in relation to the Premises.
  - (xiii) **Impose**, as appropriate, a requirement for a Policy to ensure that there is a safe area for leaving drinks whilst customers leave the Premises for other reasons, e.g. to smoke.
- c) **Reduce** the likelihood of any violence, public disorder or Policing problems that may arise if a licence was granted.
- d) Implementing the outcomes of consultations held by the Applicant, in respect of their application and submitted Operating Schedule, with the Devon and Cornwall Constabulary including any recommendations made by the Constabulary's Architectural Design Liaison Officer.
- e) The expected attendance and participation at local licensing forums and high risk event meetings.

### **3.2 THE PROMOTION OF PUBLIC SAFETY**

- a) The adequacy of measures proposed to deal with the **promotion of public safety** and in particular, the steps taken by, or the proposals of the applicant to:-
- (i) **Assess** the risks to the public, staff and others associated with operating the Premises or event in accordance with their submitted Operating Schedule and measures implemented to reduce those risks.
  - (ii) **Provide** adequate facilities for people or performers with disabilities and to ensure their safety.
  - (iii) **Ensure** that the number of people, staff and performers, present in the Premises or event can be safely evacuate in the case of emergency and that

adequate access arrangements exist to permit the attendance of emergency vehicles, if required.

- (iv) **Ensure** adequate staff training has been undertaken to deal with emergencies. To indicate the frequency that such training will be updated and the method of maintaining staff training records to demonstrate that regular training has taken place.
- (v) **Determine** the outcomes of consultations held by the Applicant with the Council's Officer responsible for the enforcement of Health and Safety legislation in respect of the application and the submitted Operating Schedule. It is the Policy of the **Licensing Authority** to not use its licensing powers to **secure compliance** with fire safety requirements, which arise from other legislation. However, in circumstances where fire safety inadequacies indicate that Premises pose a risk to the health and safety to those who enter them and where specific fire safety enforcement does not provide a sufficient or sufficiently rapid remedy; the Licensing Authority will take appropriate steps to ensure that the risk is removed.
- (vi) **Determine the** controlled entry to the **Premises or event** and to establish the maximum number of persons who are occupying the **Premises or event** or part thereof, at any time. **(See Appendix three for further information)**
- (vii) **Determine** the views of the Maritime and Coastguard Agency, as the lead Authority with regard to all the Licensing Objectives, in the case of an application for a Premises Licence in respect of a passenger vessel.

**b) In preparing an Operating Schedule for large scale events, which would require Premises Licence, the Applicant is expected to consider if appropriate the following guidance publications: -**

- (i) **Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)**
- (ii) **The Event Safety Guide – A guide to health, safety and welfare at music and Similar events (HSE 1999) ("The Purple Book") ISBN 0 7176 2453 6**
- (iii) **5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804**
- (iv) **The Guide to Safety at Sports Grounds, 5<sup>th</sup> edition (The Stationery Office, 1997) ("The Green Guide") ISBN 0 11 7020745**
- (v) **Safety Guidance for Street Arts, Carnival, Processions and Large Scale**



Performances published by the Independent Street Arts Network, Published: 2004, ISBN 0954489217

- (vi) Guidance and advice from, Licensing team, Environmental Health and consumer protection division, Roebuck House, Abbey Road, Torquay, TQ2 5EJ. Tel: 01803 208126

### 3.3 THE PREVENTION OF PUBLIC NUISANCE

- a) The adequacy of measures proposed to deal with the “**potential for nuisance**” and in particular, the steps taken by, or proposals of the Applicant to:-
  - (i) **Prevent** noise and vibration escaping from the Premises, including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
  - (ii) **Prevent** noxious fumes from causing a nuisance to occupants of nearby residential and commercial Premises or land.
  - (iii) **Prevent** disturbance from light arising from security devices, flood lighting, advertising lighting or any special effect lighting.
  - (iv) **Prevent** disturbance by patrons arriving at, or leaving the Premises, or in the vicinity of the Premises, especially when smoking.
  - (v) **Prevent** queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises or otherwise manage the queue to prevent disturbance or obstruction.
  - (vi) **Ensure** that staff leave the Premises quietly.
  - (vii) **Ensure** where appropriate, that arrangements are made for parking by patrons and consider the effect of additional parking on local residents.
  - (viii) **Consider** whether there is sufficient provision for public transport for patrons.
  - (ix) **Determine** whether taxis and private hire vehicles serving the Premises are likely to disturb local residents and people staying in holiday accommodation.
  - (x) **Consider** whether routes to or from the Premises on foot or by car, or for service or delivery vehicles, pass residential Premises and holiday accommodation and if so, what effect does this have on such properties.

- (xi) **Determine** whether other measures to prevent nuisance have been taken, such as the use of CCTV or the employment of SIA registered door supervisors.

Licensees should consider:

- (a) recruiting SIA (**Security Industry Authority**) licensed door supervision staff from a registered company; and
  - (b) What measures will be taken and what procedures are in place for licensees to check the SIA register of licensed door supervisors to ensure their Premises and patrons are only protected by door supervisors with an SIA licence.
- (xii) **Improve** the Premises following any previous or current enforcement action taken.
  - (xiii) **Determine** whether the Premises would result in increased refuse storage or disposal problems, or whether additional litter from or in the vicinity of the Premises could cumulatively cause public nuisance.
  - (xiv) **Determine** and implement the outcomes of consultations held by the Applicant in respect of their application and submitted Operating Schedule with Torbay Council's *Environmental Enforcement Officers*.

### **3.4 THE PROTECTION OF CHILDREN FROM HARM**

- a) The adequacy of measures proposed to protect Children from harm and in particular the steps taken by, or proposals of the Applicant to protect children:-
  - (i) **Where** there have been convictions or Fixed Penalty Notices against staff employed at the Premises for serving alcohol to minors, or Premises with a reputation for under age drinking.
  - (ii) **Where** the supply of alcohol for consumption on the Premises is the exclusive or primary purpose of the services provided at the Premises.
  - (iii) **Where** there is a known association with drug taking or dealing.
  - (iv) **Where** there is a strong element of gambling on the Premises (e.g. jackpot machines).
  - (v) **Where** entertainment or services of an adult or sexual nature are provided.

- (vi) **Where**, in the case of Premises giving film exhibitions, the arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself.
  - (vii) **Where** there are cigarette vending machines on the Premises.
  - (viii) **Where** children are employed without a work permit issued by Torbay Council.
- b) The steps the applicant has taken or proposes to: -
- (i) **Clearly** state their intentions to exercise discretion to protect children from harm.
  - (ii) **Limit** the hours when children may be present.
  - (iii) **Impose** age limitations, for those under 18 years, on attendance.
  - (iv) **Impose** age limitations, for those under 18 years, on employment.
  - (v) **Limit** or exclude children when “Special Risk Entertainment’s” are taking place.
  - (vi) **Limit** access by children to only parts of the Premises.
  - (vii) **Limit** access to cigarette vending machines.
  - (viii) **Require** the presence of an accompanying adult.
  - (ix) **Fully exclude** persons under 18 years from the Premises when any or all licensable activities are taking place.
  - (x) **Contribute** to not serving alcohol to children under eighteen years, except in the limited circumstances allowed for by the law and when satisfied that proof of age has been adequately demonstrated.
- c) The Council recommends that the only way to verify a young person’s proof of age is with reference to their:-
- (i) passport
  - (ii) a photo card driving licence issued in a European Union country
  - (iii) a Proof of Age Standards Scheme (PASS) card

- (iv) an official identity card issued by HM Forces or by a European Union country bearing a photograph and date of birth of the bearer.
- d) Licensing Authority recommends that Premises that sell or supply alcohol adopt the challenge 25 scheme.
- e) Licensing Authority recommends that premises that sell or supply alcohol should ensure that staff are suitably trained in all aspects of age-related sales' and that training is reviewed on a regular basis. (See Appendix three for further information)
- f) Clearly stated measures in the case of an emergency for controlling access and egress and ensuring the well-being of children where a regulated entertainment is specially presented for them. The Council will require as a minimum the following arrangements:-
  - (i) An adult member of staff to be stationed in the vicinity of each of the exits from any level of the Premises, subject to there being a minimum of one member of staff per 50 children or part thereof (subject to (iv) below).
  - (ii) No child unless accompanied by an adult to be permitted in the front row of any balcony.
  - (iii) No standing to be permitted in any part of the auditorium during the performance.
  - (iv) At least one adult member of staff of each gender, when groups of mixed gender are present.
- g) Clearly stated measures where regulated entertainment is specially presented for under 18's in an existing Licensed Premises, Torbay Council will require as a minimum, the conditions found in appendix three. (See Appendix three for further information)
- h) Where regulated entertainment includes child performers, the arrangements the Applicant proposes to ensure that the person responsible for the production has complied with Torbay Council's Children's Services requirements, as set out in their guidance 'Children in Entertainment'.
- i) Where a regulated entertainment is held specifically targeting children, the steps the Applicant proposes to demonstrate that the organisers of the event have ensured that their employees or other persons who will be responsible for supervising children have been submitted to the advanced disclosure mechanism operated by the Criminal Records Bureau.

**SECTION 4 – The Licensing Authority’s rationale for issuing Premises Licenses is to:-**

- 4.1 **Ensure**, whenever possible, that where progression of an application depends on both planning and licensing components, any formal consideration of the planning matters take place prior to determination of the licensing aspects.
- 4.2 **Ensure** that conditions are consistent with any Operating Schedule accompanying the application. Terms or conditions attached to Premises Licences will focus on matters that are within the control of individual licensees and others granted relevant permissions and will not duplicate requirements normally enforced by other regulatory regimes.
- 4.3 **Impose**, when necessary, a maximum allowable occupancy for an event, Premises or part or parts of Premises in the interests of public safety or for the prevention of crime and disorder.
- 4.4 **Impose**, when appropriate, stricter conditions, limited hours and in some circumstances refuse types of regulated entertainment at Premises in close proximity to residential premises.
- 4.5 **Refuse** or limit types of regulated entertainment or impose early closing times where Applicants have not sufficiently demonstrated how they will protect residential premises in close proximity to their Premises, from public nuisance. (See Appendix three for further advice and information)
- 4.6 Impose, when necessary, conditions limiting the access of children to Licensed Premises solely for the prevention of harm to children.
- 4.7 Impose as mandatory conditions, if the Premise Licence is to authorise the supply of alcohol, those mandatory conditions can be found in appendix four.
- 4.8 Impose as a mandatory condition where a Premises License is to authorise the exhibition of films: -
- a) **That** *the admission of children to the exhibition of any film to be restricted in accordance with the age restrictions set by the British Board of Film Classification*
  - b) **Except** in a case where the Licensing Authority has determined a classification of its own in relation to a particular film, in which case that classification will be adopted as a mandatory condition.
- 4.9 **Impose** conditions that will reasonably reflect the local crime prevention strategy espoused by the Crime and Disorder Reduction Partnership, Safer Communities Torbay.

- 4.10 Impose**, where reasonably necessary, a requirement that individuals shall be present at the Premises to carry out security activity for the purpose of promoting the reduction in crime and disorder (i.e. door supervisors) or other stewarding or supervisory functions and that each individual so required to carry out a security activity shall be licensed by the Security Industry Authority. The **Licensing Authority's** Policy is that one door supervisor to carry out security duties must be employed for **one hundred people** likely to be present in the Premises. This can, however, be altered subject to the Applicant demonstrating through a suitable and sufficient risk assessment, to the satisfaction of the Responsible Authorities, that a different ratio is appropriate.
- 4.11 Seek** to fulfil its Licensing Objectives by ensuring that only conditions relevant to those Objectives are attached to Licences and certificates and are tailored to the individual style and characteristics of the Premises and events concerned.
- 4.12 Seek** to promptly set before the Licensing Committee or Licensing Sub-Committee those applications that are fully made in accordance with this Policy, the Act and any other relevant regulations or guidance and to deal with licensing issues speedily, efficiently and in a cost effective manner by exercising the power of delegation to Officers for non-contentious issues. Officers will however decline putting any application before Members, if it is incomplete.
- 4.13** **Torbay Council's full scheme of delegation, which can only be amended by Full Council, during any Licensing 'Statement of Principles' review, is set out in Appendix two.**

## **SECTION 5 - The role and influence of Representations:-**

### **The Licensing Authority: -**

- 5.1 Recognises the right of a person living or running a business within the vicinity to make Representation on an application and will consider such Representation unless it deems it to be frivolous or vexatious, or, as the Act permits in the case of an application for Review of a licence or certificate, if such representation is deemed frivolous, vexatious or repetitious in nature.
- 5.2 Will not institute a Review arising from complaint by an interested party that is based on grounds similar to those raised within a period of twelve months, save in compelling and exceptional circumstances.
- 5.3 Place the onus on an Objector to provide information/evidence to support the assertion that the addition of the Premises licensable activities would produce the claimed impact on the neighbourhood when considered against the four Licensing Objectives.
- 5.4 Recognises that Elected Councillors are now defined as Interested Parties and can make Representations in their own right, and not just on behalf of others, providing they are Members of the relevant Licensing Authority to which the application has been made.

**SECTION 6 - The way the Licensing Authority will communicate and enforce requirements**

- 6.1 **The Council** has a Licensing Committee comprising of 15 Members of the Council in order to discharge the functions of the Licensing Authority and a Licensing Sub-Committee comprising of any three Members of the Licensing Committee to discharge any function it directs that is exercisable by the Licensing Committee.
- 6.2 **A Chairperson** of the Licensing Committee will be elected at the first annual meeting of the Licensing Committee.
- 6.3 **The Council** will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with the Council's constitution. No Member of the Council shall sit upon the Licensing Committee or Sub-Committee unless they have received appropriate training.
- 6.4 **The Licensing Committee** recognises the Local Safeguarding Children's Board or specified successor organisation as the competent body for the purposes of this Policy with regard to the protection of children from harm.
- 6.5 Adhere to the principles of the, The Regulatory Compliance Code, 2008, which are:-
- a) to have clear standards
  - b) to be helpful and open
  - c) to act proportionately and consistently
  - d) to inspect based upon risk, and
  - e) Demonstrate a clear complaints procedure for all licensing issues recognising that all individuals have an absolute right to make representations or seek a review.
- 6.6 Publicise the Terms of Reference set down for its Licensing Committee.
- 6.7 Recognise enforcement as formal and informal actions including advice, information, monitoring, liaison, training and promotion of good practice and includes:-
- a) **Actions** instituted by the Licensing Committee
  - b) **Actions** taken by an Officer of the Council with the appropriate delegated authority to take such actions
  - c) **Actions** by an authorised Officer of a partner organisation with a statutory responsibility for a licensable Premises or activity.



6.8 Work with the Police and other enforcement agencies to support its Protocols:-

‘Licensing Act 2003 – Information Exchange’ and

‘Preventing the illegal supply of alcohol to persons under the age of 18 years’

6.9 **Work** in partnership with relevant agencies to develop effective and documented Protocols and working arrangements which allow for a ‘lighter touch’ where risks are perceived low, whilst higher risks situations may be specifically targeted in proportion to the risks identified.

6.10 **Comply** with the LACORS guide on test purchasing operations, ‘A Practical Guide to Test Purchasing’ insofar as it relates to the test purchasing of alcohol by Trading Standards Officers and other agencies.

6.11 **Insofar** as it is possible, avoid duplication of requirements with other regulatory agencies.

6.12 **Recognise** the Act as only one of the mechanisms available to regulate the leisure, hospitality and retail economy and to assist in the maintenance of public order in Torbay. Other influences and controls include: -

a) **Planning** Controls and the recognition that crime and disorder resistance should be designed into new developments.

b) **The designation** of public places where alcohol may not be consumed and the confiscation of alcohol may be enforced.

c) **Police powers** to close down Premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise and the powers of Environmental Health Officers to close noisy Premises.

d) **Prosecution** of personal licence holders who sell alcohol to people who are drunk.

e) **Powers of the Police**, Responsible Authorities or a local resident or business to seek a Review of a Premises Licence or Club Premises Certificate.

f) **Responsive** enhancement of public lighting standards in areas identified as being, or with potential for being, problematical from the point of view of crime, disorder or public safety.

g) **Flexible** resourcing of the Council's Communication Centre to maintain optimum use of the CCTV system with its partners in accordance with its Code of Practice for the Operation of Closed Circuit Television (August 2001).

- h) **Promotion** of the Night-Net, Pub-Watch or Store-Net communication systems and where appropriate impose the participation in the Night-Net scheme upon applicants through licence conditions.
- i) **Measures** taken in partnership with local businesses and others to maintain a clean and safe environment.

6.13 Investigate complaints against Licensed Premises both with respect to the conditions on their Premises Licence or Club Premises Certificate, but also the requirements of the Licensing Act 2003. In addition it will investigate any complaints, regarding noise, public safety or child protection that is within its remit to do so.

**Contact details for advice on whether or not activities fall to be licensed**

Licensing and Public Protection Team  
Community Safety  
Roebuck House  
Abbey Road  
Torquay  
TQ2 5EJ  
Tel: 01803 208126  
E-mail: *licensing@torbay.gov.uk*

**Contact details of responsible authorities**

Devon and Cornwall Constabulary Licensing Section  
Paignton Police Station  
PO Box 1  
Paignton  
TQ2 3YF  
Tel: 01803 841287  
E-mail: *licensing.torbay@devonandcornwall.pnn.police.uk*

Devon & Somerset Fire and Rescue Service  
Divisional Headquarters  
Newton Road  
Torquay  
TQ2 7AD  
Tel: 01803 653700  
E-mail: *southfiresafety@dsfire.gov.uk*

Safeguarding Manager  
Local Safeguarding Children's Board  
2<sup>nd</sup> Floor  
Union House  
Union Street  
TQ1 3TL  
Tel: 01803 208567  
Email: *cpunit@torbay.gov.uk*

Maritime and Coastguard Marine Office  
New Fish Quay Market  
Plymouth  
PL4 0LH  
Tel: 01752 266211  
E-mail: *Plymouth\_mo@mcga.gov.uk*

Licensing and Public Protection Team (Public Nuisance)  
Community Safety  
Roebuck house  
Abbey Road  
Torquay  
TQ2 5EJ  
Tel: 01803 208091  
Email: *environmental.protection@torbay.gov.uk*

Commercial Team  
Community Safety  
Roebuck house  
Abbey Road  
Torquay  
TQ2 5EJ  
Tel: 01803 208039  
E-mail: *licensing@torbay.gov.uk*

Health and Safety Executive  
Ballard House  
West Hoe Road  
Plymouth  
PL1 3BL  
Tel: 01752 668481  
E-mail: *hse.infoline@connought.plc.uk*

Planning and Development Services  
Roebuck house  
Abbey Road  
Torquay  
TQ2 5TF  
Tel: 01803 207812  
E-mail: *planning@torbay.gov.uk*

Trading Standards  
Community Safety  
Roebuck house  
Abbey Road  
Torquay  
TQ2 5EJ  
Tel: 01803 208030  
E-mail: *trading.standards@torbay.gov.uk*

Everyone living or working in Torbay is entitled to a good quality of life. That is why all the statutory agencies, businesses, voluntary and community groups have committed themselves to work together to improve Torbay. We have one thing in common – ***“to provide services to the people, who live, work and socialise in Torbay.”***

## **Appendix 1 – Special Saturation Policy**

The area shaded grey on the attached plan is an area which has been identified by the Police as being subject to high levels of alcohol related crime. Evidence has been provided to show that the Council have made provision in its previous Licensing Policy review for a Special Saturation Policy (otherwise known as a Cumulative Impact Policy (CIA) and is to be continued in respect of this area.

The effect of this measure is to indicate that an application for a new Premises Licence, or the variation of an existing Premises Licence, would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area, though this is dependant on firstly Representations being made and secondly the Applicant being unable to demonstrate that, within their Operating Schedule, that there will be no negative cumulative impact on one or more of the Licensing Objectives. For example, while a large nightclub or high capacity public house might add to problems, a small restaurant or theatre may not. It is important to remember if no Representations are received for an application within the Saturation Zone the application must be granted, without the need to a hearing.

It would still be necessary for:-

- the application to be submitted,
- consultations to take place,
- Representations to be received; and
- appropriate consideration of the matter.

It would normally not be justifiable to adopt a Special Policy just on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the Premises. A Special Policy will address the impact of a concentration of many Licensed Premises selling alcohol for consumption on and off the Premises, which may give rise to large numbers of people who have been drinking alcohol on the streets in a particular area.

The operation of this aspect does depend on a number of factors but, specifically, that the problems are not the responsibility of any one Premises. It is also necessary to define the boundaries of the area concerned

Although this is a specific separate part of the adopted Policy, it will be subject to regular review and formal reconsideration every three years, as with the Statement of Licensing Principles. If it is clear that the original difficulties highlighted have been dealt with, possibly by other initiatives or Policies, it may be dispensed with.

### ***Factors considered in adopting and continuing a special policy***

Devon and Cornwall Constabulary in conjunction with Torbay Council have expressed serious concern in relation to crime and disorder and public nuisance incidents in Torquay Town centre both historically under the old licensing regime and following the implementation of the Licensing Act 2003.

Devon and Cornwall Constabulary had collated statistical data which described an increase in reported crime and disorder which corresponded to an increase in the number and duration of

late night licences in Torquay Town centre. The nuisance and disorder particularly arises from customers of Licensed Premises located in the special saturation policy area.

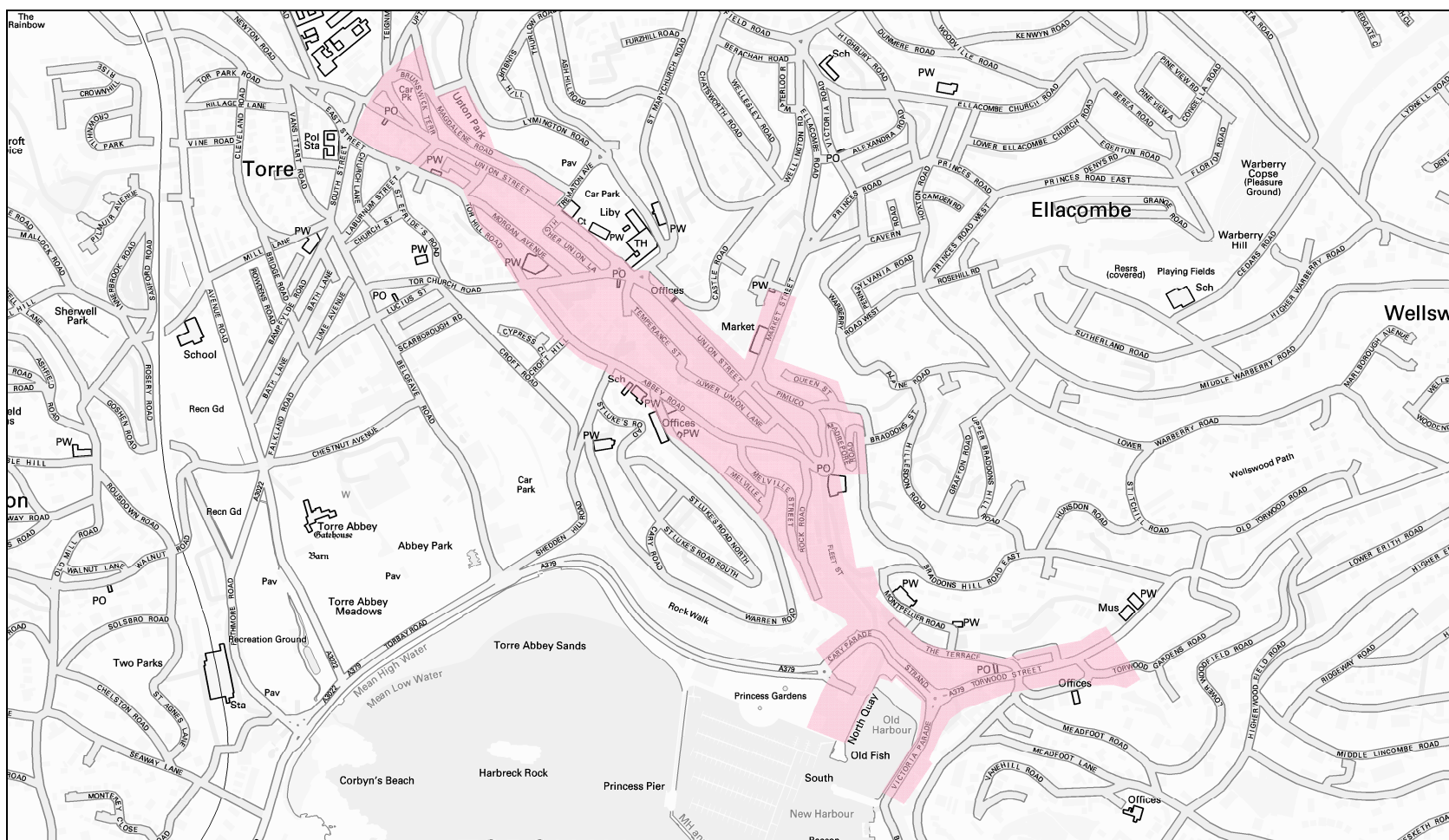
This previously recorded increase in crime and disorder has shown a decrease over the last 3 year period in parts of the CIA, largely due to successful joint working with all interested authorities and business premises along with Town Centre CCTV, the introduction of an Order prohibiting the public consumption of alcohol in the Town Centre and the use of multi-agency licensing inspections. This is a welcome but managed trend which the Licensing Authority expects to continue by adhering to the current CIA.

The problems of anti-social behaviour from a number of late night Licensed Premises still continues, most of which are 'drink led businesses', and is further exacerbated by various other risk factors such as the location of late night take-away Premises, the position of taxi ranks and the absence of other complimentary Premises, e.g. restaurants, cafes, family venues and theatres.

Although this is a specific separate part of the adopted Policy, it will be subject to regular review and formal reconsideration every three years, as with the Statement of Licensing Principles.

The introduction of the Special Saturation Policy has not precluded applications for new Premises Licences or Variation to existing Premises Licences premises in the town centre. It has focused attention particularly on the promotion of the Licensing Objectives relating to crime and disorder and public nuisance. As a result the incidence of crime and disorder has stabilised and Torbay Council and the Devon and Cornwall Constabulary firmly believe there is an ongoing need for a Special Saturation Policy in this area.

Torquay Town Centre is subject to considerable re-development both currently and over the next five years i.e., Draft Torbay Harbour Area Action plan and other ongoing development will both increase the urban population of Torquay Town Centre and the number of late night commercial Premises. It is accepted that the re-development will change the character of Torquay Town Centre in time, however it is imperative that the Council protect both residents and businesses against the potential growth of anti-social behaviour and crime and disorder.



## Appendix one

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## **Appendix Two – Scheme of Delegation**

The full **scheme of delegation** can only be amended by the Licensing Committee and is set out below: -

<b>Matter to be dealt with</b>	<b>* Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If an objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/ club premises certificate.		If a representation made	If no representation made
Application for provisional statement.		If a representation made	If no representation made
Application to vary premises licence/ club premises certificate.		If a representation made	If no representation made
Application for minor variation of premises licence/ club premises certificate.			All cases
Application to vary designated premises supervisor.		If a Police objection	All other cases
Request to be removed as designated premises supervisor.			All cases
Application for transfer of premise licence.		If a Police objection	All other cases
Applications for interim authorities.		If a Police objection	All other cases
Application to review premises licence/club premises certificate.		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases
Decision whether to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a Police objection to a temporary event notice.		All cases	

\* **Full committee may deal with all Sub-Committee matters.**

## **Appendix Three – Supplementary Information on Licensing Objectives**

### **Prevention of Crime and Disorder (Section 3.1 (viii), (ix) and (x))**

#### **Risk assessment for the provision of SIA door staff**

The number and times of required employment would be dependant on the location and style of Premises/event. Some areas may warrant the employment of SIA registered door staff for longer periods of the evening than other areas. This may be particularly true of Night Time Economy areas, which includes the Cumulative Impact Area. The number of door supervisors to be employed would need to be determined as a result of a risk assessment carried out by the Premises Licence Holder and/or the Designated Premises Supervisor or required by the Licensing Authority. However it is recommended that a minimum of one supervisor per one hundred customers be used. Consideration also needs to be given to the ratio of male and female door supervisors which are appropriate for particular Premises/events.

#### **Register of SIA door staff**

Impose, as appropriate, a requirement for keeping of a daily Premises register of employed SIA registered door stewards and this register to be kept for a minimum of 12 months, and be available for inspection by any authorised officer of the Licensing Authority or Police body. The register shall include full names of the SIA door supervisor working, with their SIA badge numbers, the date and the times and that they commence and finished their work. This register shall be signed at the end of each shift by the duty manager.

#### **Provision of Incident Log**

Impose, as appropriate, an incident log. The Premises incident log shall record all calls, whether in person or via alternative communication (e.g. email, in writing) made to the Premises where there is a complaint made by a resident or neighbouring Premises of noise nuisance or anti social behaviour by persons attending or leaving the Premises. The incident log shall record the details of the caller, time and date of the call/ visit and the incident referred too along with any action or proposed action/s taken to resolve the issue complained of. The incident log will also record all incidents in the use of force by staff or SIA registered door supervisors in the refusal of entry to or the ejection of patrons from the Premises. The details of any registered SIA registered door supervisors involved in the incident shall be recorded including their badge number.

#### **Public Safety (Section 2.2)**

#### **Occupancy of Licensed Premises**

Require the submission of an Operating Schedule that is specific to the individual application; and where appropriate specifies the maximum intended occupancy including staff, performers and members of the public and is sufficiently comprehensive to enable the Licensing Authority and other Responsible Authorities to consider the application fully within the terms of this Policy, where appropriate. This should be in the form of a fire risk assessment, including safe capacity limits in compliance with the **Fire Regulatory Reform Act 2005**, and in addition to the information above, should include how these numbers are controlled. The Licensing Authority will, when relevant applications are received from the Fire Authority, consider the implications relating to fire safety for each individual application for, or Variation to, the Premises Licence.

## **Prevention of Public Nuisance (Sections 4.4 and 4.5)**

### **General consideration**

The Licensing Authority's rationale for issuing New or Variations to Premises Licence and Club Premises Certificates where there are extensions in operational hours, or the addition or extension of activities (regulated entertainment) that may cause public nuisance are that there will be a presumption of refusal if the Applicant has not properly considered and where appropriate sought advice from those with expertise in this field, in order to alleviate any issues of public nuisance arising.

There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused.

It is clearly not possible to lay out an exact position, as each circumstance will be different and each application must be considered on its own merits.

Furthermore, activities which are likely to generate significant noise, may not be allowed at any time, unless adequate mitigation measures are incorporated in to the Premises and included within the Operating Schedule of the application form.

Consideration must be given to the following, though this is not an exhaustive list

- Type of licensable activity, for example Live music is likely to generate significantly more noise than most other activities
- How can the noise from the activity be controlled to prevent noise breakout. Some premises simply do not have the structure to contain noise, and it is unlikely that these types of premises can have these noisier activities.
- Can the noise breakout be controlled by double glazing, noise limiters, large lobby areas, or any other structural change that attenuates the noise?

- How customers behave when they leave the premises, for a smoke, to make phone calls, to catch a taxi or to walk home
- Where are the smoking areas situated
- Background noise levels, i.e. the background levels of noise in the Night Time Economy areas will be higher than, residential areas, and those levels will vary depending on whether premises are on busy roads or in quiet residential streets.

Some of this may be obvious to the Applicant, however some of it needs expert advice and where this may be anticipated, then either a consultant report should be submitted as part of the application, or a condition added that advises that this will be done to the Responsible Authorities satisfaction before the activity starts.

Many premises already have later operating hours and later activities. Evidence shows this is and does cause significant public nuisance to neighbours and creates a significant workload for the Responsible Authority.

Torbay Council therefore commits to addressing these concerns by way of Reviews and should any Premises be causing these types of problems, they can expect the presumption that Torbay Council will seek to reduce these activities and operation hours in a simpler way to new or Variation applications.

### **Protection of Children from Harm (Section 3.4(e) & (g))**

#### **Staff Training**

Licensing Authority recommends that premises that sell or supply alcohol should ensure that staff are suitably trained in all aspects of age-related sales' and that training is reviewed on a regular basis. Good practice would be considered as the following:

- Evidence of staff training in relation to age-related sales
- Evidence of training reviews carried out as and when appropriate
- A refusals register when service of alcohol is declined to those persons unable to provide proof of age.

#### **Under 18 disco's in licensed premises**

- These events shall finish no later than 23.00hrs (11.00pm) after which there will be a 30 minute period before the nightclub re-opens to over 18's
- The Police shall be notified in writing or email at least (minimum) 14 days prior to the proposed event.

- At least 4 SIA door supervisors must be employed throughout the event, which shall include at least 1 female supervisor. All supervisors will have undergone a criminal records bureau check.
- All alcohol will be locked and/or obscured from view.
- All gaming machines with prizes and cigarette machines will be unplugged and locked
- All promotional material relating to alcohol shall be removed.
- Any person refusing to be searched will be refused entry.
- Metal detectors will be used at random on entry.
- The event will be promoted to ages of 14 years and above.
- International student events shall be restricted to international students only.
- Throughout under 18 events, the designated premises supervisor or personal licence holder must be present.

## **Appendix Four – Mandatory Conditions**

### **1 Mandatory conditions where licence authorises supply of alcohol**

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **2 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).

### **3 Mandatory condition: door supervision**

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

(2) But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises

certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section—

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule

#### **4. Mandatory Condition: Irresponsible drink promotions**

(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

#### **5. Mandatory Condition: Irresponsible drink promotions**

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

**6. Mandatory Condition: Free tap water**

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

**7. Mandatory Condition: Age Verification Policy**

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

**8. Mandatory Condition: Drinks measures**

The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.