

Wednesday, 9 November 2022

**LICENSING SUB-COMMITTEE**

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

**Thursday, 17 November 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 Atiya-Alla

Councillor Ellery

Councillor Barbara Lewis

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**Together Torbay will thrive**

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Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# 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 - 6)  
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 29 September 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. **Exclusion of the Press and Public**  
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.

**7. Licensing Act 2003 - Determination of an application for a new Personal Licence**

(Pages 7 - 24)

To consider a report on the determination of a new Personal Licence.

**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**

**29 September 2022**

**-: Present :-**

Councillor Margaret Douglas-Dunbar, Councillor Vic Ellery and Councillor Barbara Lewis

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**31. Election of Chairman/woman**

Councillor Ellery was elected as Chairman for the meeting.

**32. Apologies**

None

**33. Minutes**

The Minutes of the meeting of the Sub-Committee held on 11 August 2022 were confirmed as a correct record and signed by the Chairman.

**34. Urgent items**

None.

**35. Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence**

Members considered a report on the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Driver's Licence. The Licensing Officer started to present his exempt report to Members.

Following a request from the respondent, the Chairman agreed to extend the normal time allowed for oral representations from 10 minutes to 30 minutes for all interested parties in light of the additional information which was circulated on 26 September 2022.

The Licensing Officer presented his initial report that details five separate complaints within the last four months received by Torbay Council's Licensing Department regarding the respondent, who holds a Torbay Council dual drivers' licence. The complaints relate specifically to the respondent losing his temper, aggression and driving standards.

**Decision:**

That Mr Savva's Torbay Council Driver's Licence be suspended for a period of three months, in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 and that this suspension shall have immediate effect, in accordance with Section 61(2B) of the Local Government Miscellaneous Provisions Act 1976.

During the period of suspension, Mr Savva must undertake and successfully complete an anger management course by an accredited provider and an advanced RoSPA drivers' course and produce written evidence to that effect to Torbay Council's Licensing Department.

Failure to do so will result in Mr Savva's Torbay Council Driver's Licence being revoked with immediate effect from the date the suspension expires.

Should Mr Savva successfully complete the required courses within a shorter period from the date of suspension and produce sufficient evidence to that effect, the suspension will cease on written confirmation to Mr Savva from Torbay Council's Licensing Department.

Members determined, having considered all the evidence before them, that the suspension should have immediate effect, in the interest of public and customer safety, having determined his current state, that Mr Savva was not a fit and proper person to hold a Torbay Council's driver's licence.

**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 Mr Savva alone. An unequivocal and unanimous answer by Members to this question, was 'no'.

Members were concerned to hear of 6 complaints received by the Licensing Department over a 3-month period, 5 relating to incidents of unprofessional conduct and one in respect of a vehicle collision, all of which had occurred whilst Mr Savva was on duty as a driver licensed by Torbay Council. Further, that there had been a subsequent failure to inform the Licensing Authority of the damage sustained to the licensed vehicle within 72 hours, as required by Torbay Council's Taxi Policy.

Members carefully considered the written submissions of the complainants, the video footage showed by the Licensing Officer relating to the incidents on 18 June 2022 and 8 August 2022, and Mr Savva's written and oral submissions.

In considering each incident and whilst noting Mr Savva's differing version of events, it was evident from the video footage that Mr Savva's conduct was confrontational, discourteous, unprofessional and involved the use of inappropriate

language, all of which fell well below the standards reasonably expected by them of a driver licensed by Torbay Council.

Whilst Members had some sympathy for Mr Savva in that they believed there to be some truth in the ongoing issues that he reported to have been experiencing with other taxi drivers, particularly at the Paignton Railway Station rank, and noting that Mr Savva had been to the Police as regards one member of the public involved in one of the complained incidents, it was clear that he had been impulsive in his reactions more than once and they were concerned by the repetitious nature of the incidents.

It was a further concern to Members, that Mr Savva sought to justify his actions and therefore Members could not be confident that he would not repeat the same behaviour. Members were also concerned, given the alleged aggressive and confrontational nature displayed by Mr Savva during the incidents and that which they had witnessed in the video footage, that Mr Savva could be volatile, as acknowledged by his own admission, and therefore determined that Mr Savva presented a real risk to public safety.

Members were concerned that Mr Savva appeared unfamiliar with the Code of Conduct, however noted his admission, though unremorseful, that his behaviour fell below the standard expected of him.

Upon consideration of the road traffic collision, Members noted Mr Savva's admission that he was at fault, although took a dim view of him leaving the scene of the accident to complete his fare, before the arrival of the emergency services, though noted that he did immediately return to the scene. It was concerning to Members that Mr Savva's explanation for the collision was due to being 'distracted by events' and it was this that led to his inattention. As a professional driver, it is for this reason that Members determined it necessary and appropriate, that Mr Savva's drivers' licence be suspended for him to undertake successfully an advanced RoSPA drivers' course, ensuring that he is fit and proper to hold a driver's licence issued by Torbay Council.

Members gave careful consideration to revoking Mr Savva's driver's licence but resolved that in light of his 14-year untarnished record, (save for one unpursued complaint unrelated to conduct), the mitigating circumstances put forward by him, and the positive reviews posted on social media, a suspension was appropriate with the requirement that Mr Savva must successfully complete both an anger management course and an advanced RoSPA driver's course. Members hope that thereafter, Mr Savva will be able to return to work and be capable of fulfilling his obligations as a licensed driver.

In concluding, Members resolved to suspend Mr Savva's drivers' licence with immediate effect, as they could not be satisfied that he remained a 'fit and proper person' to hold a Torbay Council Dual Hackney Carriage and Private Hire Drivers Licence. In determining this, Members believed that Mr Savva's conduct and skill as a professional driver had been unacceptable, and to suspend the licence with immediate effect was in their opinion, both necessary and proportionate, to ensure public safety.

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

Title: **Licensing Act 2003 – Determination of application under section 117 of the Licensing Act 2003 (Personal Licence), made in the name of Miss Joanne Louise Hayden**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **17 November 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 application for a Personal Licence submitted by Miss Hayden, following receipt of an “Objection Notice” from Devon and Cornwall Constabulary under section 120(5) of the Licensing Act 2003 (the Act).
- 1.2 The decision to grant or refuse to grant an application for a Personal Licence, where an Objection Notice has been received, must be made by the Licensing Committee or a Sub-Committee thereof.
- 1.3 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) Grant the application
  - b) Reject the application.
- 1.4 Reasons for the decision must be given for inclusion in the Notice which will be served on the Applicant and the Chief Officer of Police.

### **2. Background**

- 2.1 An application for a Personal Licence was submitted on behalf of Miss Hayden on 5 October 2022 by licensing consultants, Inn Confidence. A copy of the application form is provided at **Appendix 1**.

- 2.2 The Applicant is required to declare if they have been convicted of a relevant or foreign offence under Schedule 4 of the Act, and to provide details of the nature and date of the conviction and any sentence imposed.
- 2.3 Miss Hayden declared she received a conditional discharge of 3 years for the production/attempted production on premises of a controlled drug - Class B – Cannabis, on 1 March 2019. Members may notice the Applicant ticked a box on the application form, at Part 2, Section 2, to say she does not have a relevant conviction – Officers believe this was done in error.<sup>1</sup>
- 2.4 The offence of permitting production/attempted production on premises, of a controlled drug Class B Cannabis under the Misuse of Drugs Act 1971, is a relevant offence under the Act. A copy of Schedule 4 of the Act is provided at **Appendix 4**.
- 2.5 Section 120(4) of the Act requires the Licensing Authority to notify Devon and Cornwall Constabulary where an Applicant has been convicted of a relevant offence. Officers duly notified Devon and Cornwall Constabulary about the application on 12 October 2022 and invited comments by 25 October 2022. A copy of this correspondence is provided at **Appendix 2**.
- 2.6 Devon and Cornwall Constabulary, having had regard to the conviction of the Applicant for a relevant offence, notified the Licensing Authority on 14 October 2022, that it is satisfied that granting the licence would undermine the crime prevention licensing objective. In their email notification, Devon and Cornwall Constabulary explain Miss Hayden’s conviction will not become spent until 22 December 2023 and she is not considered to be an appropriate person to hold a Personal Licence. A copy of this correspondence (the Objection Notice) is provided at **Appendix 3**.
- 2.7 Where an Objection Notice is given within the 14-day period and not withdrawn, the Licensing Authority must hold a hearing to consider the Notice, unless the Applicant, Devon and Cornwall Constabulary and the Licensing Authority agree that it is unnecessary and having regard to the Notice, must reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.
- 2.8 Members are asked to note, that the Interim Licensing Manager contacted the Applicant by telephone on 27 October 2022 to explain an Objection Notice had been received in respect of the application and confirmed that the matter would be determined by the Licensing Sub Committee. During that telephone call, the Applicant confirmed that she wished her application to be heard and understood that a formal Notice of Hearing would be issued to her forthwith.
- 2.9 The Interim Licensing Manager also attempted to contact Inn Confidence by telephone to advise of the Objection Notice, but this call was unanswered. There was no facility to leave a voicemail message.
- 2.10 Appropriate Notices have been issued to both parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including details of the Objection Notice and the procedure to be followed at the hearing.

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<sup>1</sup> The Licensing Act 2003 (Personal licences) Regulations 2005 – Schedule 3 (7)(1)(c)



- 2.11 The Council's delegation scheme, published in the Council's "Licensing Statement of Principles 2021-2026" recommends that "Applications for a Personal Licence" is a matter for the Council's Licensing Sub Committee.

### **The Decision and Right of Appeal**

- 2.12 If the application is refused, a Right of Appeal to the Magistrates' Court is granted to the Applicant by Section 181 and by Schedule 5, Part 3 17(1) of the Act.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted to Devon and Cornwall Constabulary by Section 181 and by Schedule 5, Part 3 17(2) of the Act.
- 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.

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

### **Appendices**

- Appendix 1: Copy of Application submitted on behalf of Miss Hayden on 5 October 2022
- Appendix 2: Copy of correspondence to Devon and Cornwall Constabulary of 12 October 2022, notifying Applicant has a relevant conviction
- Appendix 3: Copy of Objection Notice served by Devon and Cornwall Constabulary on 14 October 2022
- 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)

**Application for a personal licence**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

1. Your personal details		
<b>TITLE Please tick</b>		
Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input checked="" type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	Hayden	
Forenames	Joanne Louise	
<b>PREVIOUS NAMES (if relevant) please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary.</b>		
<b>TITLE Please tick</b>		
Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname		
Forenames		
Date of Birth	[REDACTED]	
Nationality	[REDACTED]	
I am 18 years old or over. Please tick		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>ADDRESS WHERE ORDINARILY RESIDENT (We will use this address to correspond with you unless you complete the separate correspondence box below).</b>		
[REDACTED]		
<b>Post town</b>	<b>Post code</b>	
[REDACTED]	[REDACTED]	
<b>TELEPHONE NUMBERS</b>		
Daytime		
Evening		
Mobile	[REDACTED]	
<b>FAX NUMBER</b>		


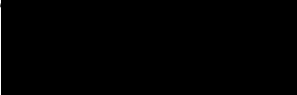
<b>E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)</b> [REDACTED]
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

<b>Address for correspondence associated with this application (if different to the address above)</b>	
[REDACTED]	Licensing Team Suite 8, Rodney Chambers 40 Rodney Street Liverpool L1 9AA
<b>Post town</b> [REDACTED]	<b>Post code</b> [REDACTED]
<b>TELEPHONE NUMBERS</b>	
Daytime	
Evening	
Mobile	
<b>E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)</b> APPLICATIONS@INNCONFIDENCE.CO.UK	

<b>2. Your licensing qualifications</b>	
<b>Read Note 1</b>	<b>Please tick yes</b>
Please indicate below which one of these statements applies to you:	
1. I hold an accredited licensing qualification	<input checked="" type="checkbox"/>
2. I hold a certified qualification	<input type="checkbox"/>
3. I hold an equivalent qualification	<input type="checkbox"/>
4. I am a person of prescribed description	<input type="checkbox"/>
If you have ticked either of statements 1, 2 or 3 please provide details of your qualification in the box below (name of qualification, date of issue, issuing body) and please enclose your qualification with your application. If you have ticked statement 4, please provide evidence that you are a person of prescribed description.	
BIIAB Level 2 Award for Personal Licence Holders – 26.08.22	

3. Previous or outstanding applications for a personal licence		
Note: You may only hold one personal licence at a time.		Please tick
Do you currently hold a personal licence?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Do you currently have any outstanding applications for a personal licence, with this or any other licensing authority?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any personal licence held by you been forfeited in the last 5 years?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Licensing Authority		
Licence number		
Date of issue		
Any further details		

4. CHECKLIST:	
I have	Please tick yes
<ul style="list-style-type: none"> <li>enclosed two photographs of myself, one of which is endorsed as a true likeness of me by a solicitor or notary, a person of standing in the community or any individual with a professional qualification</li> </ul>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>enclosed any licensing qualification I hold or proof that I am a person of prescribed description</li> </ul>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>enclosed a criminal conviction certificate or a criminal record certificate or the results of a subject access search of the police national computer by the National Identification Service</li> </ul>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>enclosed a completed disclosure of criminal convictions and declaration form (Schedule 2)</li> </ul>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>included a proof of my right to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (see note 2)</li> </ul>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>made or enclosed payment of the fee for the application</li> </ul>	<input checked="" type="checkbox"/>

5. Declaration	
<p>I am entitled to work in the UK and am not subject to a condition preventing me from doing work relating to the carrying on of a licensable activity. I understand that my licence will become invalid if I cease to be entitled to live and work in the UK.</p>	
<p>The information contained in this form is correct to the best of my knowledge and belief.</p>	
<p>It is an offence to knowingly or recklessly make a false statement in or in connection with an application for the grant of a personal licence. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement). To do so could result in prosecution and a fine of any amount. It is an offence under section 24B of the Immigration Act 1971 to work illegally.</p>	
SIGNATURE	DATE
	

**Disclosure of convictions and civil immigration penalties and declaration**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

1. Your personal details	
<b>TITLE</b> Please tick ✓	
Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input checked="" type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	Hayden
Forenames	Joanne Louise
<b>PREVIOUS NAMES (if relevant) please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary.</b>	
<b>TITLE</b> Please tick ✓	
Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	
Forenames	

2. Forfeiture by a court or revocation by a licensing authority of a personal licence in the last 5 years		
Please tick ✓		
Has any personal licence held by you been forfeited or revoked in the last 5 years?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, please provide details below:		
Name of court/licensing authority		
Address of court		
Date of forfeiture/revocation		
Offence which resulted in the forfeiture/revocation		
Any additional details		

3. Relevant or foreign offences and civil immigration penalties		
Read Note 1	Please tick ✓	
Have you been convicted of any relevant offence or foreign offence or been required to pay a civil immigration penalty?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If you have been convicted of any relevant offence you must provide details for each conviction of the date of conviction, the name and location of the convicting court, offence of which you were convicted and the sentence imposed:		
<p><i>Production / attempted production of premises controlled drug - class B - cannabis 1.3.19 South + West Java Magistrates Conditional discharge 3yrs Costs 750</i></p>		
If you have been convicted of any foreign offence you must provide details for each conviction of the date of conviction, the name and location of the convicting court, offence of which you were convicted and the sentence imposed:		
<p> </p>		
If you have received an immigration penalty you must provide details, including the reference, date and company name.		
<p> </p>		

<b>4. Declaration</b>			
I declare that I have not been convicted of any relevant offence or any foreign offence or been required to pay a civil immigration penalty			
SIGNATURE		DATE	

<b>5. Declaration</b>			
The information contained in this form is correct to the best of my knowledge and belief.			
It is an offence knowingly or recklessly to make a false statement in or in connection with an application for the grant of a personal licence. A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement. To do so could result in prosecution and a fine of any amount. It is an offence under section 24B of the Immigration Act 1971 to work illegally.			
SIGNATURE		DATE	

This is to certify that

**JOANNE LOUISE HAYDEN**

has been awarded the

**BIIAB Level 2 Award for Personal Licence Holders**

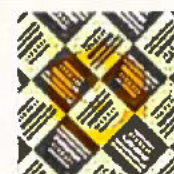
Qualification No: 603/2468/5

Date Achieved: 26 August 2022



**Paul Eeles**  
Chief Executive  
BIIAB Qualifications Limited

**ofqual**  
**REGULATED**  
register.ofqual.gov.uk





Appendix 2: Copy of correspondence to Devon and Cornwall Police of 12  
October 2022, notifying Applicant has a relevant conviction under  
the Licensing Act 2003

**TORBAY COUNCIL**

Please reply to: Licensing

c/o Town Hall  
Castle Circus  
TORQUAY  
Devon  
TQ1 3DR

Chief Officer of Police  
Devon and Cornwall Police

**My ref:** SRU/272165

**Telephone:**

**Email:** [licensing@torbay.gov.uk](mailto:licensing@torbay.gov.uk)

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

BY EMAIL

**Date:** 12 October 2022

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Dear Sir/Madam

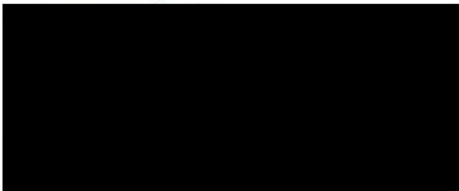
**Re: Notice under s120 (4) of the Licensing Act 2003 - application for personal licence**

Torbay Council has received an application for a personal licence and the applicant has disclosed a 'relevant offence'.

I have enclosed a copy of the application and ask that any comments (objection notice) are received by Tuesday 25 October 2022.

**Should you need to contact us, please quote the reference number above.**

Yours faithfully



*Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.*

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If you require this in a different format or language, please contact me.



**Appendix 3: Copy of Objection Notice served by Devon and Cornwall Police on 14 October 2022**

**From:** SMART Julie 50403 <[Julie.SMART@devonandcornwall.pnn.police.uk](mailto:Julie.SMART@devonandcornwall.pnn.police.uk)>  
**Sent:** 14 October 2022 16:20  
**To:** Licensing <[Licensing@torbay.gov.uk](mailto:Licensing@torbay.gov.uk)>  
**Subject:** JOANNE HAYDEN - APPLICATION FOR A PERSONAL LICENCE

Good afternoon

I refer to an application for a Personal Licence submitted by Joanne Hayden, your reference SRU/272165 refers.

Please accept this email as an objection notice under Section 120 of the Licensing Act 2003, on the following grounds:

On 1 March 2019 police officers executed a warrant under the Misuse of Drugs Act 1971 at Ms Hayden's home address of [REDACTED] where they found a cannabis grow (CR/18569/19 refers). Ms Hayden was subsequently interviewed and charged with a drugs offence. On 23 September 2020 Ms Hayden appeared at the South and West Devon Magistrates Court where she was convicted of an offence of Permit Production/Attempted Production on premises, of a controlled drug Class B Cannabis, under Section 8(a) of the Misuse of Drugs Act 1971. Ms Hayden subsequently appeared at Exeter Crown Court on 26 November 2020 where she was sentenced to a conditional discharge of 3 years, and costs of £750.

Permitting activities to take place on premises under Section 8 of the Misuse of Drugs Act 1971 is a relevant offence under Schedule 4, Section 113(7)(d) of the Licensing Act 2003.

The Rehabilitation of Offenders Act 1974 states that the period for a conditional discharge to become spent is the length of the order, from the date of conviction. This means that this conviction will become spent on 22 September 2023.

As Ms Hayden has a current, relevant conviction for a drug related offence, which will not become spent for another 11 months, I do not consider her to be an appropriate person to hold a Personal Licence. Drug use and supply is prevalent within licensed premises, therefore I expect all Personal Licence holders to take positive action in respect of drug related issues and Ms Hayden's conviction for permitting her premises to be used for the production of drugs demonstrates that she does not have a responsible attitude in respect of controlled drugs.

I am satisfied that the granting of a Personal Licence to Ms Hayden would undermine the crime prevention objective.

Should you require any further information, please do not hesitate to contact me.

Kind regards



**Julie Smart**

Alcohol Licensing Officer - Torbay

Tel: 07921 933974

World Class Sustainable Policing

### 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

SCHEDULES

Section 113

SCHEDULE 4 PERSONAL LICENCE: 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 Cinemas Act 1985 (c. 13);

(i) the London Local Authorities Act 1990 (c. vii).

**[F12A** An offence under the Public Health (Minimum Price for Alcohol) (Wales) Act 2018.]

**Textual Amendments**

**F1** Sch. 4 para. 2A inserted (2.3.2020) by [Public Health \(Minimum Price for Alcohol\) \(Wales\) Act 2018 \(anaw 5\)](#), **ss. 2(6), 28(2)** (with [s. 23](#)); [S.I. 2020/175](#), [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);
- (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 (handling 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).

**[F27A** An offence under any of the Immigration Acts.]

#### **Textual Amendments**

**F2** Sch. 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. 2017/380](#), 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 article infringing copyright);
- (b) section 107(3) (infringement of copyright by public performance of work etc.);
- (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).

**[F3]** (d) section 6(6) (failing to co-operate with a preliminary test).]

#### Textual Amendments

**F3** Sch. 4 para. 14(d) inserted (25.4.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), **ss. 123(2), 157(1)** (with [s. 123\(5\)](#)); [S.I. 2012/1129, art. 2\(d\)](#)

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).

**[F4]** 18A sexual offence, being an offence —

(a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003 **F5**, 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));

**[F6]** (aa) listed in Schedule 3 to the Sexual Offences Act 2003 (sexual offences); for the purposes of notification and orders);]

- (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 paras. 18, 19 substituted (16.9.2005) by [The Licensing Act 2003 \(Personal licence: relevant offences\) \(Amendment\) Order 2005 \(S.I. 2005/2366\)](#), **art. 2**

**F5** 2003 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 [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 139(2), 183(1)(5)(e)**; [S.I. 2017/399, reg. 3\(e\)](#)

**[F7]** 19A 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 is required to be charged as arson (whether or not it would otherwise fall within this definition).]

### Textual Amendments

**F7**Sch. 4 paras. 18, 19 substituted (16.9.2005) by [The Licensing Act 2003 \(Personal licence: relevant offences\) \(Amendment\) Order 2005 \(S.I. 2005/2366\)](#), [art. 2](#)

**[F8**19AAAn 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\(1\)\(5\)\(e\)](#); [S.I. 2017/399](#), [reg. 3\(e\)](#)

**[F9**19BAn 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\(3\)\(4\)](#))

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

**[F10**21An 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\(4\)](#)

**[F11**[**F12**22]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. 2](#)

**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 2003 \(Amendment of Schedule 4\) Order 2007 \(S.I. 2007/2075\)](#), [art. 2](#)

**[F13**22ZAAAn 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).]

### Textual Amendments

**F13**Sch. 4 para. 22ZA 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\(4\)](#), [183\(1\)\(5\)\(e\)](#); [S.I. 2017/399](#), [reg. 3\(e\)](#)

**[F14**[**F15**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 paras. 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. 2 para. 71](#) (with [reg. 28\(2\)\(3\)](#))

**F15**Second Sch. 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\(d\)](#)

23An 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 paras. 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. 2 para. 71](#) (with [reg. 28\(2\)\(3\)](#))

**F16**23AAAn 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. 5 para. 5\(3\)](#); [S.I. 2016/553](#), [reg. 2](#)

**F17**23BAn 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\(5\)](#), [183\(1\)\(5\)\(e\)](#); [S.I. 2017/399](#), [reg. 3\(e\)](#)

**F18**24An offence under section 1 of the Criminal Attempts Act 1981 of attempting 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 \(c. 13\)](#), [ss. 123\(4\)](#), [157\(1\)](#) (with [s. 123\(5\)](#)); [S.I. 2012/1129](#), [art. 2\(d\)](#)

25An 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 \(c. 13\)](#), [ss. 123\(4\)](#), [157\(1\)](#) (with [s. 123\(5\)](#)); [S.I. 2012/1129](#), [art. 2\(d\)](#)

26The 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 \(c. 13\)](#), [ss. 123\(4\)](#), [157\(1\)](#) (with [s. 123\(5\)](#)); [S.I. 2012/1129](#), [art. 2\(d\)](#)