

Monday, 3 August 2020

CABINET

A meeting of **Cabinet** will be held on

Tuesday, 11 August 2020

commencing at **5.30 pm**

The meeting will be held remotely via Zoom (the links to the meeting are set out below)

<https://us02web.zoom.us/j/87504252032?pwd=aHI2TmpVNTIzSHY1eTI2RityVEN0QT09>

Meeting ID: 875 0425 2032

Password: 464822

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Meeting ID: 875 0425 2032

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Members of the Committee

Councillor Steve Darling (Chairman)

Councillor Carter

Councillor Long

Councillor Cowell

Councillor Morey

Councillor Law

Councillor Stockman

A prosperous and healthy Torbay

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Teresa Buckley, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

CABINET AGENDA

1. Apologies

To receive apologies for absence.

2. Disclosure 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.)

3. Communications

To receive any communications or announcements from the Leader of the Council.

4. Urgent Items

To consider any other items the Chairman decides are urgent.

5. Matters for Consideration

6. How do we make Black, Asian and Minority Ethnic (BAME) lives matter in Torbay Review

(Pages 5 - 16)

To consider a report on the above.

7. Adults Social Care Delivery Plan, COVID 19 Recovery and establishment of Adult Social Care Improvement Board

(Pages 17 - 29)

To consider a report that sets out proposals for Adult Social Care (ASC) Governance in Torbay, the Development Plan and COVID 19 recovery.

8. Plymouth and Torbay Children's Safeguarding Partnership

(Pages 30 - 51)

To consider a report on the proposed and necessary changes to the

existing 'Plymouth and Torbay Childrens Safeguarding Partnership' arrangements.

9. **Community Infrastructure Levy Funds - Administration and Governance of Neighbourhood Proportion** (Pages 52 - 61)
To consider a report that seeks agreement of the administrative process most appropriate for the Community Infrastructure Levy Neighbourhood proportion funds.
10. **Review of Pest Control Services** (Pages 62 - 72)
To consider a report on the above.
11. **Licensing Act 2003 - Draft Licensing Statement of Principles 2021 to 2026** (Pages 73 - 138)
To consider the report on the proposed draft Licensing Statement of Principles 2021 to 2026 for consultation.
12. **Exclusion of Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following items on the agenda on the grounds that exempt information (as defined in Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended) is likely to be disclosed.
13. **Briefing Document on Creation of Solar Farm** (Pages 139 - 155)
To consider the exempt report.

Instructions for the Press and Public for joining the meeting

If you are using an iPad you will need to install Zoom which can be found in the App Store. You do not need to register for an account just install the software. You only need to install the software once. For other devices you should just be taken direct to the meeting.

Joining a meeting

Click on the link provided on the agenda above and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided above and follow the instructions. (**Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

You will be placed in a waiting room, when the meeting starts the meeting Host will admit you. Please note if there are technical issues this might not be at the start time given on the agenda.

Upon entry you will be muted and your video switched off so that only the meeting participants can be seen. When you join the meeting the Host will unmute your microphone, ask you to confirm your name and update your name as either public or press. Select gallery view if you want see all the participants.

If you have joined the meeting via telephone, your telephone number will appear on screen and will be displayed for all to see until the Host has confirmed your name and then they will rename your telephone number to either public or press.

Meeting Etiquette - things to consider when attending a virtual meeting

- Background – the meeting is public and people will be able to see what is behind you therefore consider what you will have on display behind you.
- Camera angle – sit front on, upright with the device in front of you.
- Who else is in the room – make sure you are in a position where nobody will enter the camera shot who doesn't want to appear in the public meeting.
- Background noise – try where possible to minimise background noise.
- Aim to join the meeting 15 minutes before it is due to start.

Meeting: Cabinet

Date: 11 August 2020

Wards Affected: All

Report Title: How do we make Black, Asian and Minority Ethnic (BAME) lives matter in Torbay Review

Is the decision a key decision? Yes

When does the decision need to be implemented? August 2020

Cabinet Member and Councillor Contact Details: Councillor Steve Darling, Leader of the Council, steve.darling@torbay.gov.uk and Councillor Jermaine Atiya-Alla, jermaine-atiya-Alla@torbay.gov.uk

Supporting Officer Contact Details: Mark Hammett, Strategic Support Manager, 01803 208002 and mark.hammett@torbay.gov.uk

1. Proposal and Introduction

- 1.1 In the light of the recent protests relating to the Black Lives Matter agenda due to the death of George Floyd in Minneapolis, USA in May 2020 and protests in cities such as London and Bristol in the UK this scoping document has been produced for Cabinet to discuss and agree Torbay Council's response to this issue.
- 1.2 When responding to such a multi-faceted, highly charged and complex issue as the Black Lives Matter agenda there is the potential to rush into making a series of piecemeal responses which whilst well intentioned lack cohesion and ultimately become fragmented and ineffective in delivering the objective they were designed to achieve. What is suggested in the draft scoping document in Appendix One is a holistic, inclusive and comprehensive approach to exploring the issue of racism in Torbay which engages with the community and allows them the space and time to voice their experiences and views to civic leaders and local and national decision makers.
- 1.3 It is proposed that Torbay Council undertake a review of racism in Torbay and pose as the key question of the review – How do we make BAME lives matter in Torbay?
- 1.4 Whilst there have been similar national reviews, what is being proposed here is a review in the locality of Torbay which has not been undertaken before.

2. Reason for Proposal and associated financial commitments

- 2.1 Torbay Council has a Community and Corporate Plan that is based on ensuring our local community thrives. Therefore, not only does it have a legal duty but also a commitment and responsibility to ensure that all sections of our community thrive and the review will enable the Council to reflect on whether this is the case in Torbay.
- 2.2 There are no financial commitments to the council beyond the officer time involved in supporting this review.

3. Recommendation(s) / Proposed Decision

- (i) That Cabinet approve the undertaking of the 'How do we make BAME lives matter in Torbay' Review as outlined in the draft Scoping Document and Timetable.
- (ii) That the membership of the How do we make BAME lives matter in Torbay Review Panel comprise 5 councillors (2 Conservative, 2 Liberal Democrat and 1 Independent) and that the Review Panel identify relevant interested parties to be invited to attend meetings.

Appendices

Appendix 1: How do we make BAME lives matter in Torbay Review Draft Scoping Document

Appendix 2: How do we make BAME Lives matter in Torbay Review Draft Timetable

Background Documents

| Section 1: Background Information | |
|--|--|
| 1. | <p>What is the proposal / issue?</p> <p>It is proposed that Torbay Council undertake a review that seeks to explore the question - how do we make BAME lives matter in Torbay? This proposal has been taken against a background of the death of George Floyd in Minneapolis, USA in May 2020 and protests in cities such as London and Bristol in the UK in May/June 2020.</p> |
| 2. | <p>What is the current situation?</p> <p>There is growing concern in the UK about whether this country values the lives of people from a Black, Asian and minority ethnic background. These concerns have been prevalent in UK society for some time but the recent death of George Floyd in the USA and subsequent protests in many UK cities has led to a highlighting of this concern.</p> |
| 3. | <p>What options have been considered?</p> <p>Torbay Council has considered a number of options to respond to the concern which have included approaches to look at the issue within different areas of the council but it is felt that this approach could be fragmented and would not deliver a holistic view or provide answers to the questions the review will seek to pose.</p> |
| 4. | <p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>Priorities:</p> <ul style="list-style-type: none"> • Thriving People and Communities • A Thriving Economy • A Council Fit for the Future <p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect • Reduce demand through prevention and innovation • Integrated and joined up approach |
| 5. | <p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p> <p>The review will ensure that the council's role as corporate parents is included in the review panel's line of questioning.</p> |
| 6. | <p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>A key line of questioning of the review will need to be the prevalence and impact of poverty, deprivation and vulnerability on our Black, Asian and ethnic minority community.</p> |
| 7. | <p>How does the proposal/issue impact on people with learning disabilities?</p> <p>A key line of questioning of the review will need to be around the impact of having a learning disability and being black, Asian or of an ethnic minority.</p> |

| | |
|----|--|
| 8. | <p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>The proposal will affect all of the community of Torbay but most especially those people from a Black, Asian and ethnic minority background.</p> <p>A full list of known consultees is listed in Appendix One Draft Scoping Document but it is important to emphasize that this can be flexed as the review progresses.</p> <p>Due to the current restrictions due to the Covid Pandemic engagement with the community will have to be via accessible remote media solutions, email and letter submissions. However, as the review progresses and the restrictions potentially reduce this could be reviewed.</p> |
|----|--|

Section 2: Implications and Impact Assessment

| | |
|-----|--|
| 9. | <p>What are the financial and legal implications?</p> <p>There are no financial implications beyond staff resource to support the review.</p> <p>There are no legal implications beyond the council complying with the appropriate laws and legislation.</p> |
| 10. | <p>What are the risks?</p> <p>There are a number of risks associated with the proposal to undertake the review. These are:</p> <ul style="list-style-type: none">• Reputational risk of not undertaking a review of the BAME lives agenda with our community• Risk that this review could attract unwanted attention e.g. extremist groups• Risk that Black, Asian and ethnic minority community may not engage with the review• Risk that Covid restrictions may impact on review's ability to engage with key consultees especially wider community of Torbay. |
| 11. | <p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable to this proposal.</p> |
| 12. | <p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The proposal to undertake the review will enable the council to gather the evidence and data it requires to make recommendations to itself and other decision-makers.</p> |
| 13. | <p>What are key findings from the consultation you have carried out?</p> <p>Not applicable see response to 12 above.</p> |
| 14. | <p>Amendments to Proposal / Mitigating Actions</p> <p>Not applicable see response to 12 above.</p> |

Equality Impacts

| 15. | Identify the potential positive and negative impacts on specific groups | | |
|---|---|--------------------------------------|----------------|
| | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact |
| Older or younger people | The aim of the review is to have a positive impact on this group. | | |
| People with caring Responsibilities | The aim of the review is to have a positive impact on this group. | | |
| People with a disability | The aim of the review is to have a positive impact on this group. | | |
| Women or men | The aim of the review is to have a positive impact on this group. | | |
| People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> | The aim of the review is to have a positive impact on this group. | | |
| Religion or belief (including lack of belief) | The aim of the review is to have a positive impact on this group. | | |
| People who are lesbian, gay or bisexual | The aim of the review is to have a positive impact on this group. | | |
| People who are transgendered | The aim of the review is to have a positive impact on this group. | | |
| People who are in a marriage or civil partnership | The aim of the review is to have a positive impact on this group. | | |

| | | | | |
|------------|---|--|--|--|
| | Women who are pregnant / on maternity leave | The aim of the review is to have a positive impact on this group. | | |
| | Socio-economic impacts (Including impact on child poverty issues and deprivation) | The aim of the review is to have a positive socio-economic impact. | | |
| | Public Health impacts (How will your proposal impact on the general health of the population of Torbay) | The aim of the review is to have a positive impact on the health of the population of Torbay | | |
| 16. | Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above) | No known cumulative impacts within the council at this point. | | |
| 17. | Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above) | No known cumulative impacts with other public services at this point. | | |

TORBAY COUNCIL

How do we make Black, Asian and minority ethnic (BAME) lives matter in Torbay Review Panel

DRAFT Scoping Document

Objective of the Review

To review the question – How do we make BAME lives matter in Torbay?

Scope of the Review

1. How do we make BAME lives matter at Torbay Council?
2. How do we make BAME lives matter at Torbay's public organisations?
3. How do we make BAME lives matter in Torbay's community and voluntary sector?
4. How do we make BAME lives matter in Torbay's business community?
5. How do we make BAME lives matter in Torbay's culture and environment?

Rationale for the Review

- 1.1 In the light of the recent protests relating to the Black Lives Matter agenda due to the death of George Floyd in Minneapolis, USA in May 2020 and protests in cities such as London and Bristol in the UK this scoping document has been produced to detail the scope of Torbay Council's response to this issue.
- 1.2 When responding to such a multi-faceted, highly charged and complex issue as the Black Lives Matter agenda there is the potential to rush into making a series of piecemeal responses which whilst well intentioned lack cohesion and ultimately become fragmented and ineffective in delivering the objective they were designed to achieve. What is suggested is a holistic, inclusive and comprehensive approach to exploring the issue of racism in Torbay which engages with the community and allows them the space and time to voice their experiences and views to civic leaders and local and national decision makers.
- 1.3 It is proposed that Torbay Council undertake a review of racism in Torbay and pose as the key question of the review – How do we make BAME lives matter in Torbay?
- 1.4 Whilst there have been similar national reviews, what is being proposed here is a review in the locality of Torbay which has not been undertaken before.

Consultees

- Senior Officers of Torbay Council
- Torbay Council Staff
- Torbay Council customers
- Devon and Cornwall Police
- Office of the Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly
- Torbay and South Devon NHS Foundation Trust
- Devon Partnership NHS Trust
- South Western Ambulance Service NHS Trust
- South Devon College
- Torbay's primary, secondary and special schools
- Language Schools
- Devon and Somerset Fire and Rescue Service
- Jobcentre Plus
- Probation Service
- Magistrates Court
- Staff of Torbay's public organisations
- Customers of Torbay's public organisations
- Devon Black and Asian and Minority Ethnic Network
- South Devon Against Racism Alliance
- Plymouth and Devon Racial Equality Council
- Torbay Community Development Trust
- Torbay's community and voluntary sector organisations
- Torbay Business Forum
- English Riviera BID Company
- TDA
- Torbay's businesses
- Torbay's wider community

Review Panel

To be confirmed

It is anticipated that the Cabinet will consider the report of the Panel at its meeting to be held in March 2021. Once the report has been adopted it will be forwarded to the appropriate decision-maker.

How do we make Black, Asian and minority ethnic (BAME) lives matter in Torbay?

DRAFT Timetable

| Membership of Review Panel | Scope | Timescales |
|----------------------------|---|---|
| tbc | <p>To review the question – How do we make BAME lives matter in Torbay?</p> <ol style="list-style-type: none"> 1. How do we make BAME lives matter at Torbay Council? 2. How do we make BAME lives matter at Torbay's public organisations? 3. How do we make BAME lives matter in Torbay's community and voluntary sector? 4. How do we make BAME lives matter in Torbay's business community? 5. How do we make BAME lives matter in Torbay's culture and environment? | <p>Review to commence September 2020 and final report to be submitted to Cabinet in March 2021.</p> |

All meetings will be held in community venues or via accessible remote media solutions due to current restrictions of the Covid pandemic.

| Date | Time | Public or Private | Council/Stakeholder/Community Representatives | Purpose of Meeting | Key Lines of Enquiry |
|-----------------------|------|-------------------|--|---|--|
| w/c 7 September 2020 | tbc | Public | Review Panel Members | <p>To finalise and agree scope of review and determine key lines of questioning for review.</p> <p>To agree approach for obtaining wider community views on key lines of enquiry for issue in September 2020.</p> | Agree approach to review – How do we make BAME lives matter in Torbay? |
| w/c 14 September 2020 | n/a | n/a | Call for submission of views or request to talk to panel directly from Torbay's wider community and customers of Torbay Council and other public organisations in Torbay on all key lines of enquiry | To gather the views submitted via submissions or in person of Torbay's wider community and customers of Torbay Council and other public organisations in Torbay on their response to the key line of enquiry | All key lines of enquiry |
| w/c 21 September 2020 | tbc | Public | Torbay Council Chief Executive and Director of Corporate Services | To question senior council officers on key line of enquiry | How do we make BAME lives matter at Torbay Council? |

| Date | Time | Public or Private | Council/Stakeholder/Community Representatives | Purpose of Meeting | Key Lines of Enquiry |
|-----------------------|------|-------------------|--|--|--|
| w/c 28 September 2020 | tbc | Public | Devon and Cornwall Police Office of the Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly | To question senior police representatives on the key line of enquiry | How do we make BAME lives matter at Torbay's public organisations? |
| w/c 5 October 2020 | tbc | Public | Torbay and South Devon NHS Foundation Trust Devon Partnership NHS Trust South Western Ambulance Service NHS Trust | To question senior health representatives on the key line of enquiry | How do we make BAME lives matter at Torbay's public organisations? |
| w/c 12 October 2020 | tbc | Public | South Devon College Torbay's primary, secondary and special schools Language Schools | To question senior education representatives on the key line of enquiry | How do we make BAME lives matter at Torbay's public organisations? |
| w/c 19 October 2020 | tbc | Public | Devon and Somerset Fire and Rescue Service Jobcentre Plus Probation Service Magistrates Court | To question senior Fire, probation, magistrates court and DWP representatives on the key line of enquiry | How do we make BAME lives matter at Torbay's public organisations? |
| w/c 26 October 2020 | tbc | Public | Community and Voluntary Sector organisations in Torbay Torbay Community Development Trust | To gather the views submitted in person or via submissions of Torbay's community and voluntary sector organisations on their response to the key line of enquiry | How do we make BAME lives matter in Torbay's community and voluntary sector? |
| w/c 2 November 2020 | tbc | Public | Torbay Business Forum English Riviera BID Company TDA Torbay's business community | To gather the views submitted in person or via submissions of Torbay's business community on their response to the key line of enquiry | How do we make BAME lives matter in Torbay's business community? |
| w/c 9 November 2020 | tbc | Public | Director of Place, Torbay Council | To question the Director of Place on the key line of enquiry in relation to built assets and heritage in Torbay | How do we make BAME lives matter in Torbay's culture and environment? |
| w/c 16 November 2020 | tbc | Public | Young people of Torbay | To gather the views of young people on the key lines of enquiry | All key lines of enquiry |
| w/c 23 November 2020 | tbc | Public | Wider community of Torbay and customers of Torbay Council and other public organisations in Torbay on all key lines of enquiry | To review the views submitted from, or meet with, Torbay's wider community and customers of Torbay Council | All key lines of enquiry |

| Date | Time | Public or Private | Council/Stakeholder/Community Representatives | Purpose of Meeting | Key Lines of Enquiry |
|---------------------|------|-------------------|---|---|--------------------------|
| | | | | and other public organisations in Torbay on all key lines of enquiry | |
| w/c 7 December 2020 | tbc | Public | Review Panel | Review of views and information gathered through review and discuss conclusions and recommendations | All key lines of enquiry |
| w/c 25 January 2021 | tbc | Public | Review Panel | Finalise draft report, conclusions and recommendations | All key lines of enquiry |

The report of the Review Panel will published in March 2021.



Meeting: Cabinet

Date: 11 August 2020

Wards Affected: All

Report Title: Adults Social Care Delivery Plan, COVID 19 Recovery and establishment of Adult Social Care Improvement Board

Is the decision a key decision? No

When does the decision need to be implemented? From September 2020

Cabinet Member Contact Details: Cllr Jackie Stockman, Cabinet Member for Adult Services and Public Health, Jackie.stockman@torbay.gov.uk

Supporting Officer Contact Details: Joanna Williams, Interim Director of Adult Social Services, 01803 2017175, Joanna.williams@torbay.gov.uk

1 Introduction

This paper outlines the proposals for Adult Social Care (ASC) Governance in Torbay, the Development Plan and COVID 19 recovery. The redesign of Adult Social Care's Governance Infrastructure was planned for commencement in May 2020, but was delayed due to COVID 19. This was a redesign of board infrastructure and membership, based on the priorities agreed in the ASC Risk Share 2020-23; incorporated into an overarching 3 year plan.

Refreshed Governance arrangements are in the context of the overall plan delivery, incorporating the learning from our successes and hurdles during the COVID period. ASC has not 'stood down' activity in the same way as other services so our focus is on incorporating the lessons learned and adapting our original plan accordingly. A particular focus is building on how well we have worked with the Community and Voluntary Sector; in addition to the impact of poverty and adapting to the changes in how people view care and residential care.

Key drivers underpinning the ASC Improvement Plan remain constant, these are predicting and managing system demand, improving IT and digital capability and developing the workforce. Demand on the system is high, and increasing.

The general principles of our approach are:

- A focus on co-design with the community and voluntary sector and Torbay residents.
- A focus on improving independence and reducing demand via a redesign of community services with the community and voluntary sector, including a 'front door' via the community and voluntary sector.
- Council investment in high quality options to support the local care market. This will support independence and the most vulnerable, including projects in extra care housing and residential/nursing for those with dementia.
- A focus on One Public Estate, to maximise the use of statutory sector estate and funds for the benefit of people in Torbay
- Refreshed governance and performance, to hold all organisations to account and within the Council Governance processes.

2 Key Focus Areas of the ASC Plan, post COVID 19.

2.1 Working with, and supporting, the Community and Voluntary Sector

Proposals to use ASC Precept were outlined to Council earlier in 2020, and included a commitment to invest the precept in a range of community focussed projects

Our partnership with the Community and Voluntary Sector has been strengthened over the COVID period and we will be building on these relationships. Investment of the non-recurrent COVID funds have demonstrated that this can deliver significant benefit to people's wellbeing and will, inevitably, manage demand for ASC and significantly support wider prevention wellbeing priorities.

Priorities such as mental health, food poverty and information and advice are emerging from our new partnership and will be key features of a new approach to community support. We will also consider extending the Torbay (Coronavirus) Helpline to provide a longer term access and support service for Torbay Residents.

We will also support emerging proposals such as Torbay Community Development Trust's scoping conversations about a long term partnership on a national level with organisations seeking to invest and support in Torbay and the community development model. In addition, we will focus on the Community Builders and how we can continue this function in the Bay – enabling us to engage with vital 'grass roots' community projects.

2.2 A focus on 'One Public Estate' initiatives and investment in the market

The Council is seeking to broaden the partnership to maximise the economic benefit to the public partnership.

This will consist of:

- A review of office accommodation, to prioritise co-location of The Trust staff in council owned buildings to maximise rental income for reinvestment into services
- The further development of proposals for Council investment into Residential/Nursing Care for very vulnerable people with dementia; and Extra Care

Housing to enable local people to continue to live independently in their local community.

2.3 A focus on independence and reducing demand

Torbay will continue to be a part of the Community Led Support Program, and the 'Talking Points' methodology will be reviewed to incorporate initiatives such as the community help line. Priorities such as mental health, food poverty and information and advice will be key features of a new approach to community led support. We will also consider extending the Torbay (Coronavirus) Helpline to provide a longer term access and support service for Torbay Residents.

A new innovation hub will focus on commissioning services which focus on helping people with the most complex needs stay in their own home. Services such as day care at night, live in care and night support will be a key priority. This will be supported by the emerging use of technology, which is a key enabler for maintaining independence.

3 Refreshed Governance & Delivery Structure

The proposed Adult Social Care Delivery and Governance Structure is set out at Appendix 2. The structure proposes a new Adult Social Care Improvement Board which will provide performance focus between the Council and the ICO, as well as providing opportunities to further enhance the partnership and identify wider working across the NHS and the Council.

4 Investment required to deliver the improvements

4.1 Use of ring-fenced ASC grant

All investment is within budget and from ring-fenced ASC grant funds. A key component of the ASC Risk Share was the agreement to use ring-fenced ASC grants held by the council to deliver the plan. Investment is agreed with both the ICO and Devon Clinical Commissioning group to invest in the areas outlined below. This has been streamlined to deliver efficiencies and share resources, including with the community and voluntary sector.

4.1.1 Investment in working with partners

A key priority for all partners is the ASC spend, particularly in key areas where costs are high and we benchmark poorly – indicating we should be able to increase people's independence and reduce the cost of 'bed based' solutions. This is primarily the volume of people in the 18 to 64 age group. The council has previously committed via the ASC risk share to scope the possibility of a national leader in ASC redesign to focus on this area.

We will fund a community and voluntary organisation to work with the ASC team to shape the plan as it develops. In addition, we are a currently a member of the National Development Team for Inclusion's Community Led Support programme; which has a focus on community based co-production. This will include considering the impact of the ending of the Ageing Well program.

4.1.2 Investment in local capacity to deliver the plan

We have agreed with TSDFT that iBCF ring fenced ASC money will be used jointly to deliver this plan. Additional investment in the community and voluntary sector and staffing in both the NHS and the Council is planned, and will be agreed jointly with the NHS. While spend on statutory staffing is being kept to a minimum, there is a need for fixed term investment if the work is to be done in a short timeframe.

4.1.3 Investment in building and Torbay's infrastructure

Plans are underway to invest in developing the local market so that it can provide for Torbay Residents. These projects are being scoped, but include:

- Extra Care housing – to include provision for people under 65 so they don't need residential care.
- Residential/Nursing Capacity – to ensure we have adequate provision for people with a complex dementia in well- designed buildings that maximise the benefit of technology.

4.1.4 Investment of the ASC Precept in the Community and Voluntary Sector

In a January 2020 paper, proposals were outlined which were designed to have a direct positive impact on people, to keep them well and independent. This program of using the ASC precept to invest in community based capacity and resilience will be reviewed and will continue.

5 Recommendations

- That Cabinet approves the creation of an Adult Social Care Improvement board, as set out in Appendix Two.
- That Cabinet notes that the Adult Social Care Delivery plan has been amended to incorporate the learning from COVID 19 and that there will be an investment program from non-recurrent funds, previously agreed in the Adult Social Care Risk Share and delegated to the Director of Adult Social Services.

Appendices

Appendix 1: ASC Plan - Projects Reinstatement

Appendix 2: Adult Social Care Improvement Board Terms of Reference and Operation

Section 1: Background Information

| | |
|----|---|
| 1. | <p>What is the proposal / issue?</p> <p>This paper outlines how the Adult Social Care Plan will be delivered and Governed within Torbay Council.</p> <p>It proposes the creation of an Adult Social Care Improvement Board, to match the Children’s Improvement Board. This board will receive reports from Adult Social Care Improvement Committee and the Adult Social Care Performance Committee. This will incorporate delivery of the ASC plan and delivery of the statutory duties delegated to Torbay and South Devon NHS Foundation Trust.</p> |
| 2. | <p>What is the current situation?</p> <p>Torbay Council (The Council) has a well-established, and successful, partnership with the NHS in delivering Adult Social Care (ASC). This has been renewed for a further three years, commencing in April 2020 – with The Council allocating ASC budgets for core funding, and ASC nationally awarded grants where known, to the NHS for them to manage and deliver ASC in Torbay.</p> <p>The current governance arrangements – the Social Care Program Board, does not directly link into The Council’s structure.</p> |
| 3. | <p>What options have been considered?</p> <p>The option under consideration is the only one being proposed currently.</p> <p>The Social Care Program Board is currently paused and agreement has been reached that it should be disbanded with new arrangements taking its place.</p> |
| 4. | <p>What is the relationship with the priorities within the Partnership Memorandum and the Council’s Principles?</p> <p>Development of these proposals has been in the context of the following requirements and priorities.</p> <p>Torbay Council’s Priorities</p> <p>The Council has talked to residents, partners and community and voluntary sector partners about what we should be doing in Torbay. The Council has four visions:</p> |

| | |
|----|---|
| | <ul style="list-style-type: none"> • Thriving People. Through turning the tide on poverty and having high aspirations for each other. • Thriving Economy. Through creating an environment where businesses and jobs can grow and being the premier tourist resort in the UK • Tackling Climate Change. Through becoming carbon neutral and encouraging providers and partners to consider and mitigate the impact of their work on the environment. • Council Fit for the Future. Through creating a culture of partnership. |
| 5. | <p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p> <p>N/A</p> |
| 6. | <p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>These proposals are intended to deal with key issues, aligned to the high level of deprivation in Torbay – which are notable within the region and nationally.</p> <p>In terms of Adult Social Care, the main difference between Torbay and comparators is the high activity level for adults 18-64 - approximately twice the average in 17/18. Activity data suggests good progress has been made in changing models of care for older people but models of care for those of working age remain heavily reliant on long-term residential care.</p> |
| 7. | <p>How does the proposal/issue impact on people with learning disabilities?</p> <p>These proposals are intended to positively impact on all vulnerable adults, including those with learning disabilities.</p> |
| 8. | <p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>In April 2020, and for the next three years, Torbay Council transferred all of Adult Social Care Core funds and iBCF/BCF grants to Torbay and South Devon NHS Foundation Trust under a Section 75 arrangement. This money, in the main, is used to provide services – with all partners agreeing to a three year plan to reduce cost and improve the independence and wellbeing of our most vulnerable Torbay residents.</p> <p>Developing community led support and the community development proposals which underpin these proposals will be done using co-design</p> |

| | |
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| | methodology – which goes beyond consultation and means that the community will jointly design the projects. |
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Section 2: Implications and Impact Assessment

| | |
|------------|--|
| 9. | <p>What are the financial and legal implications?</p> <p>The financial arrangements for ASC funding are under a Section 75 agreement with the NHS.</p> |
| 10. | <p>What are the risks?</p> <p>The Adult Social Care Risk Share caps the financial risk for Torbay Council for the next three years.</p> <p>Without delivery of the plan, and due governance, there is the potential for increased cost to destabilise the arrangements. If Adult Social Care were to return to the Council we would regain responsibility for all spend.</p> <p>Torbay and South Devon NHS Foundation Trust report that Adult Social Care spend is higher than the financial arrangements agreed.</p> |
| 11. | <p>Public Services Value (Social Value) Act 2012</p> <p>All allocation of monies will be undertaken in line with procurement regulations.</p> |
| 12. | <p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Views have been sought from partners and incorporated into these proposals, which are aligned to those already in place for Children's Services.</p> |
| 13. | <p>What are key findings from the consultation you have carried out?</p> <p>Partners are in agreement with the proposals.</p> |
| 14. | <p>Amendments to Proposal / Mitigating Actions</p> <p>N/A</p> |

Equality Impacts

| 15. | Identify the potential positive and negative impacts on specific groups | | | |
|-----|---|--|--------------------------------------|--|
| | | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact |
| | Older or younger people | Vulnerable people will receive joined up services and access to preventative community based activity. | | |
| | People with caring Responsibilities | Support and information will continue to be available to people with caring responsibilities | | |
| | People with a disability | Vulnerable people will receive joined up services and access to preventative community based activity. | | |
| | Women or men | | | N/A Adult Social Care is available equally to the whole population, dependent on eligibility. |
| | People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> | | | N/A Adult Social Care is available equally to the whole population, dependent on eligibility. |
| | Religion or belief (including lack of belief) | | | N/A Adult Social Care is available equally to the whole population, dependent on eligibility. |
| | People who are lesbian, gay or bisexual | | | N/A Adult Social Care is available equally to the whole population, dependent on eligibility. |

| | | | | |
|-----|---|--|--|--|
| | People who are transgendered | | | N/A Adult Social Care is available equally to the whole population, dependent on eligibility. |
| | People who are in a marriage or civil partnership | Vulnerable people will receive joined up services | | N/A Adult Social Care is available equally to the whole population, dependent on eligibility. |
| | Women who are pregnant / on maternity leave | | | N/A Adult Social Care is available equally to the whole population, dependent on eligibility. |
| | Socio-economic impacts (Including impact on child poverty issues and deprivation) | | | N/A |
| | Public Health impacts (How will your proposal impact on the general health of the population of Torbay) | These proposals will align with Public Health priorities and are designed to have a positive impact. | | |
| 16. | Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above) | NONE | | |
| 17. | Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above) | NONE | | |

Appendix One – ASC Plan - Projects Reinstatement

| Plan reinstatement | Project Name | Desired Outcome |
|--------------------|-----------------------------------|--|
| Amended | PoC Review & Insight | All PoCs reviewed under Care Act 2014; CLS & strength-based; post-COVID-19 reinstatement |
| New | Data | Accessible data for ASC System leadership and operational measurement |
| New | Training | Transfer of CLS to business as usual; project insights for ongoing dynamic training |
| Amended | Voluntary & Community Development | Understanding the sector; supporting the sector; developing the sector |
| Amended | Information, Advice & Guidance | Provide comprehensive information and advice about care and support services in Torbay |
| No change | Technology, Aids & Adaptions | Effective use of TEC, aids and adaptions at ASC Front Door and reviewed packages of care |
| Amended | ASC Front Door | Redesign the front door creating effective mechanisms for finding solutions for people and their problems which can then demonstrate impact in terms of diversions from formal care, delivering good outcomes and avoiding adult social care costs |
| No change | Arranging Support Team (2) | An operational function to allow for arranging all care and the efficient discharge of patients to their arranged care, negotiated by the AST, and will include an assurance function for timely and effective reviews. |
| No change | Future Quality & Assurance | Market oversight and provider failure, including undertaking improvement work with regulated provider sector and assurance activities that the sector is effective. |
| No change | Extra Care & Housing | Capital Development activities (project specific) |
| No change | Market Shaping | Understand the strengths and fragility of the care home market, and to link with the homecare market which is equally under pressure. Create ability to be bolder and do things differently in to shape the market. |
| Amended | Effective Social Work Practice | Increase the number of staff supervisions; Reduce the time between supervisions taking place; Variance within the staff supervision process eliminated; Increase number of staff working in a strengths based way; |

| Plan reinstatement | Project Name | Desired Outcome |
|--------------------|--|--|
| | | Reduce the length of time a case has been open: review the way staff performance is currently measured and reported including the governance structure. |
| No change | Digital & IT Infrastructure: Strata | Understand current business process; strength business process, managed and then optimise process using technology; integrating with Care Management Systems and national capacity tracker. |
| No change | Digital & IT Infrastructure: ASC Case Management System & Beyond | IT system implementation – replacement of PARIS. |
| No change | MH consultant-led approach | Develop a MH approach to provide efficient and effective mental health services for Torbay. |
| New | Innovation Hub | Work with local health and care teams in Torbay, AHSNs, national commissioners (NHS England & Improvement, NHSX, Office for Life Sciences) and industry to make sure Torbay benefits from innovations and to learn about what works from project insights. |

Appendix Two

Adult Social Care Improvement Board Terms of Reference and Operation

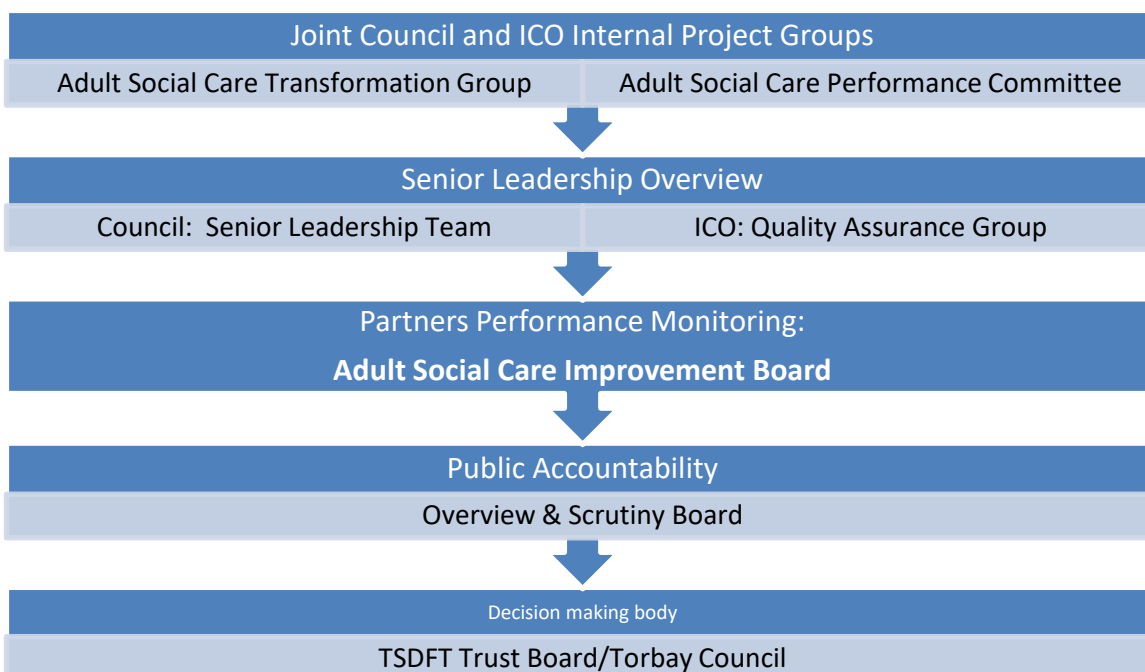
Membership:

- Three members of Torbay Council (Council) (one from each political group and including Cabinet Member for Adult Social Care and Public Health)
- One Non-Executive Director from Torbay and South Devon NHS Foundation Trust (ICO)
- Torbay and South Devon NHS Foundation Trust Chief Nurse
- Torbay and South Devon NHS Foundation Trust Director of Strategy
- Representative from Torbay Healthwatch
- Representative from Torbay Community & Voluntary Sector Steering Group
- Deputy Director of Adult Social Services
- Head of Partnerships and People, Torbay Council
- Head of Improvement and Development, Torbay Council
- Head of Finance, Torbay Council
- System Director for Torbay and South Devon NHS Foundation Trust
- Devon Partnership Trust Representative
- Independent representative (*to be identified*)

Accountability and reporting mechanism:

- The Improvement Board has no decision-making powers and will make recommendations when necessary to respective decision-making bodies
- Members are accountable to their own organisations

Reporting mechanism:



Operation:

- Chairing rotated annually between the Council and ICO and elected by the Board
- Quarterly meetings with an annual schedule of meetings agreed
- Meetings held in private to allow open discussion on confidential performance information. Other partners and stakeholders will be invited to attend when required
- Recommendations will be reached by consensus. Where consensus cannot be reached, voting will take place and recommendations agreed by a simple majority. The Chairman will have the casting vote where there are equal votes.
- The quorum of a third of the membership applies with at least one member from each organisation.
- The Board will be supported by:
 - Council – Director of Adult Social Care and Head of Finance
 - Trust – Deputy Director of Adult Social Care; Associate Director for Social Care; Director of Strategy; Director of Finance
- Minutes of recommendations taken at meetings will be circulated to each partner as soon as practicable

Terms of reference:

1. To provide oversight from both partners' perspective of the Adult Social Care Improvement Plan to ensure it is delivering against its key targets and objectives by reviewing performance information and to monitor the delivery of programme of work within the plan.
2. To hold both the ICO and the Council to account for the delivery of the outcomes of the Adult Social Care Improvement Plan, including challenging the robustness and relevance of the programme of work that has been set.
3. To ensure the savings targets set within the Adult Social Care Improvement Plan are being met.
4. To identify potential opportunities for wider working across the NHS and the Council, for example One Public Estate.
5. To make recommendations when required to appropriate decision-makers with the Torbay and South Devon NHS Foundation Trust and/or the Council, based on the reporting mechanism outlined above and to ensure the delivery of the Adult Social Care Improvement Plan.

June 2020



Meeting: Cabinet

Date: 11th August 2020

Wards Affected: All

Report Title: Plymouth and Torbay Children's Safeguarding Partnership

Is the decision a key decision? Yes

When does the decision need to be implemented? As soon as possible

Cabinet Member Contact Details: Cllr Cordelia Law, Cabinet Member for Children's Services, Cordelia.Law@torbay.gov.uk

Supporting Officer Contact Details: Nancy Meehan, Director Children's Services, nancy.meehan@torbay.gov.uk

1. Proposal and Introduction

1.1 This paper has been prepared to provide members with details on proposed, necessary changes to the existing 'Plymouth and Torbay Childrens Safeguarding Partnership' arrangements.

1.2 The Plymouth and Torbay Safeguarding Children Partnership (PTSCP) was established to provide the statutory safeguarding function to the Plymouth and Torbay Council areas at a time when their social care services were accountable to one integrated Director.

1.3 An independent review of current arrangements recommended the changes contained within this proposal in light of Torbay and Plymouth assuming their own statutory responsibilities. Further the new arrangements comply entirely with the most recent government guidance on the future of safeguarding arrangements set out in revised legislation.

2. Reason for Proposal

2.1 The Children and Social Work Act 2017 legislated for new arrangements for safeguarding children. This document describes the new arrangements for Torbay. The new arrangements replace the current local safeguarding children boards with a new Safeguarding Children Partnership. The Act names the statutory partners as the local authorities, the police and clinical commissioning groups.

2.2 Cabinet will note that this proposal reflects the word and the spirit of the revised legislation and envisages the partnership board comprising the 3 main safeguarding agencies: namely Children's Services, the Police and Health.

3. Recommendation(s) / Proposed Decision

3.1 That Cabinet notes the attached document setting out the revised safeguarding partnership arrangements for Torbay and agrees the establishment of a dedicated Safeguarding Children Partnership for Torbay.

Appendices

Appendix 1: 'Safeguarding Partnership Arrangements' Document

Safeguarding Children Partnership Arrangements and Child Death Review Arrangements for Torbay

July 2020

This document can be made available in other languages and formats.
For more information please contact hrpolicy@torbay.gov.uk

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Foreword

The Children and Social Work Act 2017 legislated for new arrangements for the safeguarding of children. This document describes the new arrangements for Torbay. The new arrangements replace the current local safeguarding children boards with a new Safeguarding Children Partnership. The Act names the statutory partners as the local authorities, the police and clinical commissioning groups.

An independent review of current arrangements recommended changing some of our ways of working and creating a single Torbay specific safeguarding arrangement, thereby ending the previous joint arrangement with Plymouth. To ensure we are successful we, as the statutory safeguarding partners, will be involving partners from a wide range agencies and organisations all of whom will have a valuable part to play in safeguarding our children.

Perhaps our most significant decision was for the safeguarding arrangements across the local authority area of Torbay to become a dedicated Safeguarding Children Partnership. Whilst this does not affect the delivery of front line services in the area, it does enable the partnership to ensure a proactive and responsive approach to the needs of children, young people and families across the local authority and drives opportunities to shape and influence policy development leading to improved practice and outcomes.

To ensure that the voice of children, young people and families is heard locally, there will be three executive sub-groups that will drive safeguarding assurance activities locally and report to the strategic partnership group.

We are also appointing an independent scrutineer who will be independent of partners but will ensure that we are delivering on the strategic approach we have agreed. The scrutineer will provide an independent view on the effectiveness of safeguarding arrangements across the three local authority areas.

As the statutory safeguarding partners, we are all in agreement that these arrangements will be adopted across agencies from **(INSERT START DATE)**. We believe these new arrangements will provide a solid foundation for further improvement in the way in which we safeguard children across Torbay and look forward to reporting on the progress we make. As a partnership we remain committed to doing the very best to support and protect our children, young people and their families.

Purpose of the Safeguarding Children's Strategic Partnership Board

The Torbay Safeguarding Children Strategic Partnership Board, hereafter referred to as the Safeguarding Children Partnership, has adopted the following statement of purpose to guide their work:

The safeguarding partners and all relevant agencies that work with children and families are committed to ensuring that safeguarding arrangements are of the highest quality, that they consistently promote the welfare of children and effectively safeguards them whatever their circumstances. Working Together to Safeguard Children (2018) outlines that the purpose of local safeguarding arrangements is to support and enable local organisations to work together in a system that delivers the following outcomes and working relationships:

- Children are safeguarded, and their welfare promoted
- Local organisations collaborate, share and own together the vision on how to achieve improved outcomes for vulnerable children
- Organisations hold each other to account effectively and challenge appropriately
- There is early identification and analysis of emerging local threats and new safeguarding issues
- Information sharing is effective at strategic and operational levels to facilitate accurate and timely decision making for children and families
- Learning is shared, promoted and embedded effectively so that organisations become reflective and are transparent about the changes to practice and services that are required; implementing the changes to practice and services to improve outcomes for vulnerable children.

In ensuring the local purpose of the safeguarding children partnership is met, all the statutory outcomes will guide and drive the work and arrangements of safeguarding partners and relevant agencies. Some changes have been made to the way these agencies work together to keep children safe because of new government guidance. The main changes are that:

- there are now three safeguarding partners in Torbay who are responsible for multi-agency arrangements for keeping children safe, namely the local authorities, Devon and Cornwall Constabulary, and the Devon NHS clinical commissioning groups (CCGs).
- the Torbay and Plymouth Local Safeguarding Children Board will be replaced by one Torbay Safeguarding Children Strategic Partnership Board
- the Safeguarding Children Strategic Partnership Board will adopt a new structure which will include three Executive Sub-Groups, with the Independent Scrutineer providing challenge to its work and a focus on learning. This document sets out the detail of how the new Safeguarding Children Partnership will work. At the heart of the arrangements is a commitment from all agencies to work together to keep children safe, to continuously improve and learn how best to do this.

About Torbay

Torbay covers an area of just over 24 square miles in the south-west of England, with a total population of 135,800. The area is served by one police force, a single clinical commissioning group and the local authorities of Torbay. The current child population of approximately 28,600 is projected to increase until 2026 and then plateau. As a proportion of the overall population, 0-19-year olds are projected to stay at 20.9% of the population till (2026) at which point the number of 0-19 is projected to decline as a proportion of the overall population. Torbay is an area of contrasts with 5 wards that include areas that are amongst the most deprived 10% nationally and 2 amongst the least deprived 10%. The rate of children living in poverty is 30%.

The area hosts around 46 schools, which educate 20,595 children and young people. In Torbay 4.91% of this population is from a minority ethnic group. The 17.3% of pupils with special educational needs and disabilities (SEND) compares to 15.7% in the South West and 14.9% nationally, while the 5% with Educational and Health Care (EHC) plans exceed regional and national rates.

As of the 31st March 2020, there were 1142 children in need in Torbay, of whom 193 were subject to a child protection plan and 354 were looked after. The rate of children per 10,000 of the overall population in all of these categories exceeds that seen nationally.

As outlined earlier in this document, the previous Local Safeguarding Children Boards which paired Torbay and Plymouth will be replaced by one Safeguarding Children Partnership, under which the safeguarding partners will work together to identify and respond to the needs of children. The three local safeguarding partners jointly leading the Safeguarding Children Partnership will comprise the Executive Group and are:

- Torbay Council, represented by its Director of Children's Services
- Devon and Cornwall Constabulary, represented by Torbay's Commander
- The Devon CCG.

The Safeguarding Children Partnership will operate in line with the requirements of the statutory guidance Working Together to Safeguard Children 2018. The geographical area is defined by Torbay's council boundaries. The safeguarding partners and relevant agencies included within these arrangements will fulfil their statutory duties to safeguard and promote the welfare of the children of Torbay who live in or are placed outside the area.

The strength of local partnership working is dependent on safeguarding partners working collaboratively together with agencies that work with families and children, whose involvement is required to safeguard and promote the welfare of children. In addition to the three main statutory safeguarding partners, a number of other relevant agencies will also work as part of the wider Safeguarding Children Partnership, reflecting the strong partnership relationships already built up across the Torbay area over many years. These agencies will become members of the Executive Sub-Groups and the Operations Group. The safeguarding partners have identified the following

organisations who are required to participate in local arrangements and who must act in accordance with agreed local arrangements:

Schools, Colleges, Further & Higher Education Providers

With around 46 settings across the area, schools are a vital safeguarding partner. Schools will be engaged as part of the Executive Sub-Groups or the Operations Group to ensure joint working to safeguard children within a multi-agency shared approach.

The Safeguarding Children Partnership will aim to build on established relationships with schools and education providers to ensure they remain a key partner agency as the landscape of school organisation continues to change. There will also be a focus on exploring how schools will participate to ensure the voices of children and young people contribute to safeguarding developments and priorities. Existing learning opportunities for Designated Safeguarding Leads in schools will be developed within the training function of the Business Group and will act as a mechanism for schools to learn, as well as an opportunity to provide feedback and participate in the work of the Safeguarding Children Partnership.

Partner Universities, not yet members of the current Boards, will contribute to the Learning and Development opportunities in Torbay and it is envisaged that this is an area that will expand as the Children's Service Learning Academy gains traction and develops its strategic links with the Safeguarding Children Partnership.

Early Years Settings & Nurseries

Settings across the area include private and voluntary sector providers, childminders and after-school clubs and are a large important sector to include in the approach to safeguarding children. They will be involved in the policy and planning functions of the new arrangements

Cabinet Members for Children's Services

The Cabinet Member for Children's Services will continue to be a member of the Executive Sub-Groups to discharge their responsibilities under the Children Act 2004 as the political lead for Children's Services.

CAFCASS

CAFCASS will remain a partner within the new arrangements and will be invited to attend the Executive Sub-Group.

The Police and Crime Commissioner

The Police and Crime Commissioner will be involved where necessary in the policy and planning functions of the new arrangements.

British Transport Police & Border Authorities

British Transport Police & Border Authorities will be involved in the policy and planning functions (as required) of the new arrangements.

Probation & Youth Justice Services

Probation & Youth Justice Services will contribute to the Executive Sub-Groups and Operations Group.

Prisons, Secure Training Centres & Young Offender Institutions

Prisons, Secure Training Centres & Young Offender Institutions will be involved in the Executive Sub-Groups and Operations Group as required, and the Strategic Partnership Board will be updated on the performance of safeguarding functions within these different custodial settings.

NHS Provider Services

NHS Provider Services including acute, community and mental health trusts, ambulance service, private organisations and primary care remain key to delivering services to children and families across the area and therefore will have representation on the Executive Sub-Groups and Operations Group. The details of representation will be subject to separate discussion reflecting the complexity of the health economy. This will determine appropriate representation and delegation through all operational and strategic levels of the NHS. This governance structure will equally allow for NHS England to be represented and to gain assurance. This arrangement will ensure involvement and assurance of the NHS system without saturation of the Safeguarding Children Partnership with health membership.

Public Health

Public Health will remain as a key partner and contribute to the Strategic Partnership Board, Executive Sub-Groups and the Operations Group. The work of Public Health teams will crucially inform the planning, delivery and assurance of universal, targeted and protective services.

Torbay Adult Social Care Services

Torbay Adult Social Care Services has its own safeguarding arrangement and it is recognised that effective join-up is required between the two safeguarding partnerships which share many of the same partner agencies and overall objectives. The Director of Adult Social Services will be required to contribute to the Strategic Partnership Board.

Other providers

Other providers of services to children and families e.g. voluntary community faith sector organisations; drug and alcohol treatment providers; domestic abuse service providers; sexual health service providers; emotional and mental health providers; adoption agencies; fostering agencies; children's homes, family centres; respite centres and holiday schemes for disabled children and other children; housing providers and commissioners; charities providing services to children and families will continue to be key partners within the new arrangements and will contribute to the Strategic Partnership Board, Executive Sub-Groups and the Operations Group. The relevant agencies serving children and families in the three local authority areas will be invited to contribute to specific sub-groups and the Operations Group. Specifically, they will be required to

give regular updates and assurance about their work to ensure safeguarding is embedded in their arrangements as part of the scrutiny process. In addition to being required to participate in local safeguarding arrangements and acting in accordance with the arrangements, the relevant agencies will also collaborate with the safeguarding partners and other relevant agencies in the following ways:

- provide targeted support from prevention to early help to protective services to families and children in line with the local continuum of need framework
- joint identification of, and response to, existing and emerging safeguarding and unmet need issues
- agree priorities to improve outcomes for children and assist in the design of local multi-agency systems that can consistently safeguard and promote the welfare of children • communicate to the safeguarding partners the expectations the local arrangements and priorities placed on them, including how expectations impact their organisational structure and ability to fulfil statutory obligations
- agree with safeguarding partners what contribution and resources they will provide to facilitate and promote local safeguarding arrangements.

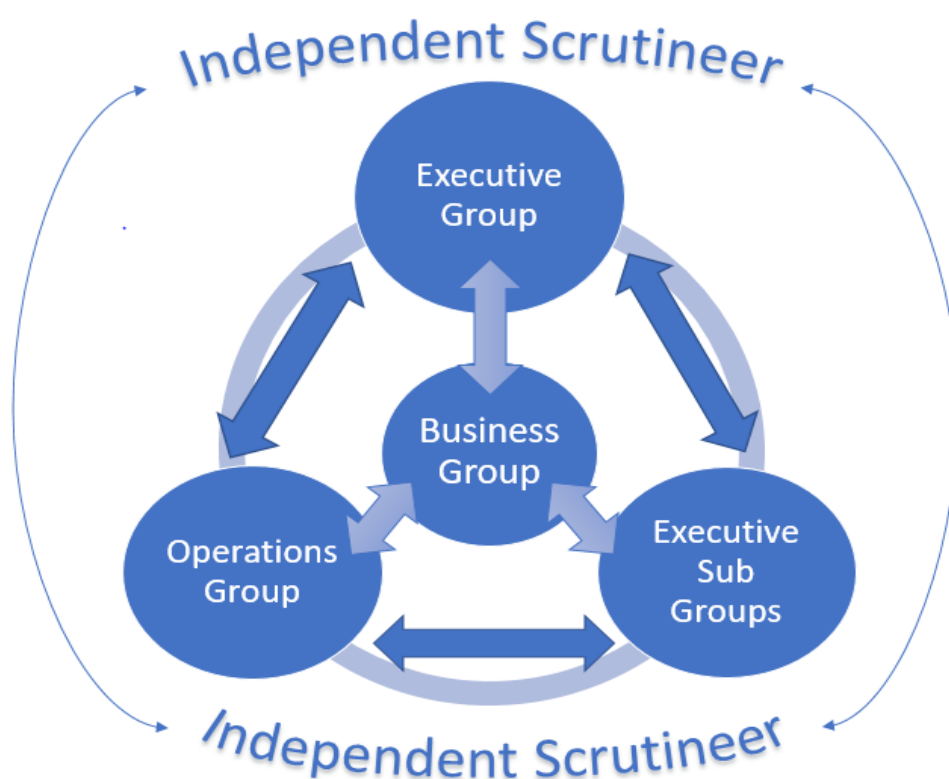
In order that relevant agencies can fulfil their roles and responsibilities, the safeguarding partners will undertake the following responsibilities to promote and further local safeguarding arrangements so that the statutory objectives of local arrangements, 'to support and enable agencies working together to improve outcomes for children', can be met. Specifically, they will:

- set out in this document, and in future arrangement documents, the agencies they wish to work with in the local safeguarding partnership arrangements
- consult with relevant agencies to develop local arrangements
- communicate with relevant agencies the expectations placed on them from being named as a relevant agency, including how the safeguarding partners will seek assurance from relevant agencies about their safeguarding systems and how they will share information across the local arrangements.

Working with other partnerships, particularly the Health and Wellbeing Board on the prevention and early help agenda in the local authority area, strong links will be developed through memoranda to undertake joint work, to delegate work, to undertake events to raise awareness and participation, joint training where it will enable local partnerships to be more efficient, support a whole-systems approach and ensure safeguarding and promoting the welfare of children is everyone's business at the highest levels.

Structure of the Partnership

The new Safeguarding Children Partnership arrangements will reduce duplication and improve integration with other strategic partnerships. Ultimately, it will enable a more consistent response to meet the needs of children across Torbay. As a result of the new arrangements the number of executive sub-groups will be small in number but powerful and exacting on behalf of vulnerable children in appropriately holding agencies to account for their safeguarding activity and ensuring an emphasis on assurance, learning, supporting and improving practice, enabling a feedback loop across all agencies, and with the frontline.



The Independent Scrutineer will have primary responsibility for:

- ensuring that children have a real voice and are at the heart of all that we do
- Chairing the Strategic Partnership Board Executive Group, the Executive Sub-Groups, the local Operational and Business Groups
- providing oversight on all audit and review activity
- determining the effectiveness of arrangements to identify and review serious child safeguarding cases
- ensuring a direct line of sight to frontline practice.

The Executive Group will:

- meet bi-monthly to set the strategic direction for the Safeguarding Children Partnership
- be responsible for ensuring that the statutory functions of the Safeguarding Children Partnership are fulfilled
- be responsible for determining the work programme of its executive sub-groups
- be responsible for liaison with other relevant bodies and National Government on matters relating to safeguarding children.

The Executive Sub-Groups will:

- comprise safeguarding partners with skilled in converting planning intentions to timely operational implementation
- ensure that strategic imperatives reflect local need and reach the 'front line', drawing attention to any gaps in service
- work closely with the Operations Group to understand how children experience services that they are offered.

The Operations Group will:

- evaluate and report upon to the executive group what works at the 'front line'
- identify and report upon service intentions that are not realised when developments are implemented
- use members specific skills to understand impact and outcomes for children.

The Business Group will:

- provide all aspects of business support to the Executive Board and its associated groups and
- be responsible for:
 - Quality Assurance and Performance Monitoring
 - Policy and Planning development
- consideration of Child Safeguarding Practice Reviews (CSPR) referrals, and oversight of CSPR and any other agreed review activity

- organising the delivery of multi-agency training programmes Communications and Engagement delivering agreed safeguarding messages to all stakeholders, including practitioners, the general public and children.

The Strategic Partnership Board through its Executive Group will set the strategic direction and provide the governance structure to ensure that statutory functions are being fulfilled. It will set the work programs of the Executive Sub-Groups and determine, having taken advice from a wide range of partners, how agencies' knowledge and skills can best be involved in safeguarding arrangements at all levels.

Executive Sub-Groups ensure priorities of local issues and concerns are implemented in full. Essentially the work of subgroups will cover the following: local implementation of strategic intent; local sensitivity/factoring local priorities; serve as local assurance mechanisms; and mechanisms to highlight local emerging priority safeguarding themes. On occasions, defined and short-life task & finish groups will be set up to support the work of the relevant sub-group.

The Operations Group will be a safety net which will be focused on how safeguarding policies and initiatives convert to activity at the front line. Are they having the intended impact? Are all agencies embracing them as they should? Are they properly resourced? In short, this groups task is to challenge incorrect assumptions about the effectiveness of the Strategic Partnership Board by being the ultimate critical but constructive friend.

Business Management Group – chaired by the Independent Scrutineer this group will ensure that the full range of business functions across all levels of the structure are effectively delivered. This will include working with the Strategic Partnership Board to consider cases reaching the serious child safeguarding threshold, completion of Rapid Reviews(RR) for the Child Safeguarding Practice Review (CSPR) Panel and consideration of cases referred for potential Safeguarding Adult Reviews (SAR)

Group membership

The Executive Group of the Strategic Partnership Board will have a membership of three comprising the Director of Children's Services, a senior officer of the CCG and the Commander responsible for Torbay policing. It will meet bi-monthly to set the strategic direction for the Safeguarding Children Partnership by reviewing performance data, learning from its activities and the experiences of front line staff in responding to local and national priorities. It will be responsible for ensuring that the statutory functions of the Safeguarding Children Partnership are fulfilled.

Executive Sub-Groups Torbay will host three Executive Sub-Groups. Membership will be agreed locally and will include the safeguarding partners and relevant agencies who play a critical role in delivering services and safeguarding children in the locality. Each member will understand strategic planning and how leaders best convert planning intentions to timely operational implementation. Executive Sub-Groups will operate across Torbay, reporting to the Executive Group, while also ensuring local needs are met through the Operations Group.

The Operations Group will comprise partnership professionals experienced and knowledgeable about what works at the 'front line' and with specialist skills in understanding impact and outcomes.

The business group will comprise personnel skilled in providing all aspects of business support to a high functioning multi-disciplinary Board and its associated groups. The group will host staff responsible for the

1. Quality Assurance and Performance Monitoring function, with particular responsibility for assuring the production of a detailed performance report and analysis for each meeting of the Executive Group
2. Policies and Planning subgroup and will be responsible for the publication of a thresholds document, information sharing arrangements and multi-agency policy and procedures. It will develop strategies and action plans for new and emerging areas of safeguarding practice, for example contextual safeguarding
3. Reviews subgroup that will be responsible for the consideration of Child Safeguarding Practice Reviews (CSPR) referrals, and oversight of CSPR and any other agreed review activity
4. Learning and Development subgroup that will be responsible for organising the delivery of multi-agency training programmes and providing assurance in respect of the sufficiency and quality of single- and multi-agency training. In close collaboration with the Children's Service Learning Academy, it will also collate partnership-wide learning and ensure that this is disseminated through the partnership's multi-agency training offer, for which it will be responsible
5. Communications and Engagement subgroup that will be responsible for identifying and delivering safeguarding messages to all stakeholders, including practitioners, the general public and children. The effectiveness of campaigns will be evaluated and used to inform future activity. The subgroup will also be responsible for engaging with children and families and ensuring that their voices are heard throughout the partnership groups.

Sharing, Promoting and Embedding Learning

Safeguarding partners and relevant agencies (including the local authority through its serious incident reporting requirements) will notify the Safeguarding Children Partnerships' secretariat of all serious child safeguarding cases and cases where organisations think that learning can be

identified about practice and service provision. Working Together to Safeguard Children (2018) allows for a pragmatic approach in deciding whether a serious child safeguarding case requires a practice review, but it requires all cases that are about a serious incident to be quickly reviewed through a Rapid Review process from which decisions can be made about a more detailed review or another form of learning opportunity. The Executive Group will decide on cases to review with decisions being scrutinised by the Independent Scrutineer. All data and decision-making rationale will be provided in the Safeguarding Children Partnership's annual report.

The Safeguarding Children Partnership will continue to use and trial methods and processes that promote systems thinking and analysis in both practice reviews and other learning opportunities. In the Safeguarding Children Partnership's implementation phase, proven methodologies will be used. While the processes of completing practice reviews can be time-consuming, the safeguarding partners and relevant agencies are committed to ensuring that the learning from any type of practice review is shared across agencies, partnerships and systems. By sharing the learning, the changes required to improve management, practice and outcomes can be promoted and implemented in full. The work across the Executive Group and its sub-groups will be linked to ensure there is sharing, promotion and embedding.

Assessment of the Effectiveness of Services

In order that safeguarding partners and relevant agencies continuously improve their safeguarding practice and services, they will need to routinely share data and intelligence so that all types of safeguarding arrangements, at individual agency level and multi-agency systems, from prevention

to protection, can be scrutinised for their effectiveness in promoting the welfare of children and effectively safeguard them. The Executive Group will gather data from its Business Group and intelligence directly through its sub-groups and indirectly from wider partnership arrangements to inform its view on the effectiveness of services. The Independent Scrutineer (and where relevant inspectorate bodies) will also advise the Safeguarding Children Partnership on priority areas to assess or to focus improvement initiatives.

Direct intelligence the Safeguarding Children Partnership intends to gather includes:

- Quality assurance and performance monitoring declarations from safeguarding partners and relevant agencies that will include qualitative and quantitative information on performance, practice and outcomes. The declarations will be used to assess how organisations are internally compliant with their statutory safeguarding responsibilities and with local arrangements and also to assess how they are contributing effectively to multi-agency systems
- Self-assessments on the effectiveness of organisation's safeguarding arrangements in line with statutory requirements (Section 11 & Section 175/157 audits)
- Case audit data
- Feedback from frontline practitioners and their managers about their experiences of working in the local systems and what they think requires improvement
- The voices and experiences of children and families involved in local safeguarding arrangements.

The Quality Assurance and Performance Monitoring arrangement within the Business Group will oversee that all data and intelligence is gathered and analysed so that required organisational, practice and service improvements and emerging safeguarding themes are identified.

Organisations will hold each other to account to ensure the purposes of the Safeguarding Children Partnership are met to the highest standards and is used to inform the work of the other sub-groups to affect improvements in local policies, strategies, training, service commissioning and communications.

Independent Scrutiny

The safeguarding partners understand the key role of scrutiny in providing assurance, monitoring and challenge to the quality of agencies' work in order to judge the effectiveness of multi-agency arrangements to safeguard and promote the welfare of children in Torbay.

The Safeguarding Children Partnership's scrutiny arrangements are part of a wider system, which includes statutory inspection arrangements and those provided by the elected members of our local authorities. Scrutiny in Torbay is wider than any one person's role and is at the heart of all the partnership's audit review and learning activity.

Scrutiny will be focussed on learning and will be positive in its approach. The Safeguarding Children Partnership will aim to build a culture where everyone involved in safeguarding children from frontline practitioners to strategic leaders welcomes and actively participates in scrutiny, trusting and learning from each other, while accepting their responsibilities and accountabilities. We aim to achieve improvement by developing good practice based on what we know works well and is evidence based.

It is expected that the Safeguarding Children Partnership's assurance system will primarily assess how effectively the arrangements are working for children and families. Underpinning this will be an assessment of the effectiveness of leadership provided by the safeguarding partners, including decision making in respect of practice reviews, and whether the arrangements properly support practitioners.

Over the forthcoming year the Safeguarding Children Partnership will develop its system of assurance. This will involve rolling scrutiny using multiple forms, with oversight from an Independent Scrutineer, who will require assurance about whether all agencies are fulfilling their responsibilities to safeguard and promote the welfare of children.

The Independent Scrutineer

The Independent Scrutineer will be independent from the safeguarding partners, and will have expertise in child safeguarding, an understanding of local need and of effective partnerships. They will oversee the development of the scrutiny system and the delivery of an annual scrutiny plan. Their role will include:

- Chairing the Strategic Partnership Board and the local Tactical Groups, thereby acting as the golden thread between strategic and operational assurance arrangements
- Reviewing the Safeguarding Children Partnership's annual report and reporting on the quality assurance of local safeguarding arrangements
- Providing oversight on all audit and review activity
- Determining the effectiveness of arrangements to identify and review serious child safeguarding cases
- Involvement in the escalation and conflict resolution process
- Having a direct line of sight to frontline practice, including through engagement with practitioners, children and families

- Ensuring the development of a culture throughout the Safeguarding Children Partnership in which scrutiny and assurance is seen as a positive process, with learning as its outcome
- Ensuring that children are at the heart of all scrutiny activity by providing challenge to partners and receiving feedback directly from children and families
- Chairing the Business Group to ensure all the secretariat functions are fulfilled for the safeguarding arrangements.

Voice of children and families

The Safeguarding Children Partnership will ensure the voice of the child and service users is at the heart of all aspects of scrutiny and assurance by talking with and receiving direct feedback from children, young people and families to test the interconnectedness of performance, practice and the voice of the child, young person and family. Involving children and families is important to safeguarding across the area

6. in contributing to and delivering the Safeguarding Children Partnership's purpose and
7. in helping to scrutinise and review the partnership arrangements themselves.

The Safeguarding Children Partnership will make use of the many existing arrangements in place across the area to regularly involve children and families in its work and hear their voices. In addition, it will ensure that children and families are involved in audits, new policy and procedure development, exercises to gather information on identified themes for training activity, scrutiny exercises and peer reviews, and when setting annual priorities through annual engagement initiatives.

Professional Challenge and Escalation

Safeguarding partners will work together to resolve any professional challenges and disputes locally. Whilst every effort will be made to work across the partnership in a strengths-based way, there may be occasions where necessary agreement cannot be reached after escalation to the Executive Group of the Safeguarding Children Partnership. In these circumstances the relevant Escalation Procedures will be used and the Independent Scrutineer will review and make recommendations to the safeguarding partners.

Child Death Review Arrangements

Child death review arrangements will operate as a parallel group to the Safeguarding Children Partnership. The Safeguarding Children Partnership will ensure transition arrangements are put in place to transfer accountability for the arrangements to the Health and Well Being Board by 2021. The local child death review partners are:

The Torbay local authority of Torbay and **etc etc PLEASE FILL IN THE GAPS**. The child death review arrangements operate in line with the requirements of the statutory guidance, Working Together to Safeguard Children 2018 and Child Death Review: Statutory and Operational Guidance (England) 2018.

The child death review process is defined by four stages following the death of a child: 1. Immediate decision making and notifications 2. Investigation and information gathering 3. Child death review meeting 4. Independent review of child death by the Child Death Overview Panel (CDOP). Present systems, commissions and meetings will be evaluated and if necessary revised to be consistent with contemporary guidance. Assurance of the arrangements will be a function of the Executive Group and the Child Death Overview Panel Business Group will publish the Child Death Review public report until such time that the function is transferred to the Health and Well Being Board.

Transitional Arrangements

It is recognised that change requires clear objectives and communication and having the right people and processes in place during transition are critical to achieving successful change. Transition from the Safeguarding Children Board to the new Safeguarding Children Partnership and Child Death Review arrangements, and further improvement thereafter, will supported by clear resources, a communications strategy, briefings for professionals, and the identification and management of risks.

SET DATES TO Publish new arrangements, Transfer data and documents to new partnership, hold the Final Safeguarding Children Board meeting, commence new arrangements, conduct roadshows across Torbay to launch the new arrangements, plan and hold the Inaugural

Safeguarding Children Partnership Executive Group and Executive Sub-Group meetings, plan and hold the Inaugural Child Death Review partners meeting through CDOP Business Group, Review first six months of new arrangements including Independent Scrutineer Role, prepare and publish initial partnership and child death review reports.

During the transition period flexibility is required to respond to developing national expectations, regulations and changes in inspection regimes. The Strategic Partnership Board will review the effectiveness of the arrangements annually to ensure they are fit for purpose and meet statutory requirements, with any changes to be updated in annual reports with proposed timescales for improvement.

Funding and Business Support

Funding: The safeguarding partners have an equal and joint responsibility to ensure that there is sufficient and effective resourcing to support the Safeguarding Children Partnership arrangements. Relevant agencies will continue to fund the new partnership arrangements as they have with safeguarding children boards. The child death review partners also have to agree how the child death review process will be funded. Future budgets of the Safeguarding Children Partnership arrangements will be shared and proportionate across the safeguarding partners and relevant agencies, transparent to children and families in the area and sufficient to cover all elements of the arrangements. While the safeguarding partners are responsible for ensuring the sufficiency of funding for the arrangements, it is envisaged that agencies will also continue to provide significant and proportionate support. The new local safeguarding arrangement will necessitate some harmonisation of practice in terms of the agencies that are expected to contribute. In addition to direct financial support, the support of a wide range of partners through attendance at meetings, membership of the training pool and provision of venues at no cost is acknowledged. Where current funding for the four parts of the child death review processes exist currently, these will be maintained until transfer of accountability takes place to the Health and Well Being Board in xxx.

Business Support: The Safeguarding Children Partnership will be supported by a Business Group. Initially, the Business Group will combine the arrangements for the current LSCB and LSABs, including the maintenance of the administrative function for the Child Death Overview Panel. As the new arrangements are embedded, these arrangements will be reviewed to ensure that they remain as effective and efficient as is possible. Our aspiration for the next phase of our new arrangements is to continue to work across the three areas and with other partnerships to identify where improved efficiencies and approaches can be created. We will know that we have successfully implemented the new arrangements when:

- children, families and communities tell us they feel safer and able to contribute to the work of the partnership
- professionals tell us they feel supported, know where to go for information, and they have opportunities to learn and network
- there is reduced duplication across the different partnerships and boards across the three areas

- the Executive Group and its Sub-Groups have clear work plans in place, actions are undertaken, monitored and achieve the desired impact
- the safeguarding partners and relevant agencies demonstrate to a high quality that they continuously improve their practice and processes focusing on improving the welfare of children and effectively protecting them from maltreatment
- we can evidence that the budget allocated has been managed effectively to implement agreed priorities.

Meeting: Cabinet

Date: 11 August 2020

Wards Affected: All

Report Title: Community Infrastructure Levy Funds – Administration and Governance of Neighbourhood Proportion

Is the decision a key decision? No

When does the decision need to be implemented? No critical deadline

Cabinet Member Contact Details: Councillor Mike Morey, Cabinet Member for Infrastructure, Environment and Culture, Mike.Morey@torbay.gov.uk

Supporting Officer Contact Details: David Edmondson, Assistant Director - Planning, Housing & Climate Emergency, David.edmondson@torbay.gov.uk

1. Proposal and Introduction

- 1.1 The Council has implemented the Community Infrastructure Levy (CIL), which generates funds from defined new developments which pay a set levy type contribution towards local infrastructure. The majority of the funds are already allocated to key infrastructure projects, including for example the costs of providing the South Devon link road. However, 25% of the levy funds form what is called the local, or neighbourhood proportion, which should be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area. The neighbourhood proportion should be spent within the neighbourhood of the development which paid the levy, which in the Torbay context would normally be expected to relate to the Neighbourhood Plan areas namely, Brixham, Paignton and Torquay.
- 1.2 With regard to CIL chargeable development which falls within the administrative boundary of Brixham Town Council, national guidance is clear and explains that the Charging Authority (Torbay Council) must pass 25% of the relevant CIL receipts to the parish council (in this case Brixham Town Council) for that area. The town council must use the CIL receipts passed to it to support the development of the Town Council's area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area. There is scope for the Town Council to allow Torbay Council to retain the neighbourhood funding to spend on agreed larger infrastructure (eg a school) if this should arise. If an area does not spend its levy share within 5 years of receipt, or does not spend it on initiatives that support the development of the area, Torbay Council has scope to require it to repay some or all of those funds. Unfortunately at the time of drafting this report no CIL payments have been received for Brixham. It should be noted that part of the Brixham Peninsula Neighbourhood Plan area falls outside of the administrative boundary of Brixham Town Council, however for administrative convenience it is

recommended that any neighbourhood proportion CIL funds received within the Brixham plan area are passed to the Town Council to administer.

- 1.3 With regard to the development falling outside of the Brixham Town Council administrative area, Torbay Council is required to consult with the community about how the neighbourhood proportion funds can be used, including to support priorities set out in neighbourhood plans. The national guidance in such cases is as follows:-

'If there is no parish or town council, the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools for example, website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.'

The law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities should use existing community consultation and engagement processes. This should include working with any designated neighbourhood forums preparing neighbourhood plans that exist in the area, theme specific neighbourhood groups, local businesses (particularly those working on business led neighbourhood plans) and using networks that ward councillors use. Crucially this consultation should be at the neighbourhood level. It should be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates.

Where the charging authority retains the neighbourhood funding, they can use those funds on the wider range of spending that are open to local councils. In deciding what to spend the neighbourhood portion on, the charging authority and communities should consider such issues as the phasing of development, the costs of different projects (for example, a new road, a new school), the prioritisation, delivery and phasing of projects, the amount of the levy that is expected to be retained in this way and the importance of certain projects for delivering development that the area needs. Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area.

The charging authority and communities may also wish to consider appropriate linkages to the growth plans for the area and how neighbourhood levy spending might support these objectives.'

Also within the *Understanding Community Infrastructure Levy (CiL)* guidance produced by Locality, on the matter is also clear in that: *In areas without a parish or town council, local communities, including Neighbourhood forums, should be consulted on expenditure of the proportion of CIL funds that would otherwise have been passed to a parish, or town council.*

- 1.4 In summary (outside of the Brixham Town Council administrative boundary) Torbay Council retains the 25% neighbourhood proportion and determines how this should be spent accounting for the guidance detailed above. At the time of drafting this report the total neighbourhood proportion amounts to circa £100,000 (although one

payment is the subject of an appeal). Of the £100,000 the greater proportion relates to the Paignton Neighbourhood Development Plan area.

- 1.5 The guidance suggests that we should consider using existing community consultation and engagement processes, which is logical in that it can avoid setting up a separate process which in itself could take up already limited resources. One option in this respect is the opportunity to consider the use of Crowdfunding which has just come into operation in Torbay. This could be used as a very effective means of identifying potential local infrastructure projects, provide additional income by way of pledges which the CIL neighbourhood proportion could contribute and importantly provide for people to indicate their support for suitable projects. In Plymouth for example it was reported that Crowdfund Plymouth raised over £434,593 for 100+ city projects from 4,550 pledgers, from an initial funding pot of £60k.
- 1.6 Given that the Crowdfunding option is now in use by the Council there is the potential for use in respect of the CIL Neighbourhood proportion. Such an approach is considered to be appropriate with regard to some of the messages provided from the Community Conference. However, Crowdfunding in Torbay is a new process and has yet to be tested so it is not known how successful it will prove.
- 1.7 In the interim, pending a review of the success of crowdfunding it is recommended that the Council invites bids at six monthly interviews (depending on the CiL collection amounts received) from the community and community organisations, to identify potential projects which might reasonably be funded from the CIL Neighbourhood proportion. It is expected that the Neighbourhood Forums/Community Partnerships would have a key role in terms of identifying and presenting priority projects. Any such bids would need to be assessed to ensure that they meet suitable criteria which accords with the national guidance on the types of projects which might be funded (including meeting infrastructure requirements compatible with or identified in the relevant Neighbourhood Plans). It is suggested that the detail of the criteria for assessment should be finalised in consultation with the Neighbourhood Forums/Community Partnerships, who will be a key stakeholder in the process.
- 1.8 It is recommended that bids are evaluated against an agreed set of criteria by a panel (CiL Spend Board) consisting of representatives from the Neighbourhood Forum and representatives of the Community Partnership in which the project is planned, the Cabinet member for Infrastructure, Environment and Culture and Ward member(s) for the area which the bid concerns. The final decision to award funding for the bid will be made by the Director of Place in consultation with the Cabinet member for Infrastructure, Environment and Culture. In all cases Torbay Council will only fund projects and release monies in accordance with its financial, procurement and legal rules and regulations.
- 1.9 In search of good practice elsewhere members of the Co-operative Councils Network including Bristol City Council and Oxford City Council have this same approach, as they too have non-parish council areas within their jurisdiction. In addition many others across the country including Poole, Epsom & Ewell, Elmbridge and Leeds City Council all have similar arrangements.

2. Reason for Proposal and associated financial commitments

- 2.1 Whilst the law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent, the guidance indicates that the Council should identify a suitable administration process in order to ensure that CIL is spent appropriately. The process can however be reviewed at any time and it is recommended that this should take place annually with consideration given to either using the crowdfunding option or possibility a combination of the bidding process and crowdfunding in the future.
- 2.2 There is an ongoing financial commitment to use the Neighbourhood proportion of CIL to fund suitable projects however, as the funds are paid specifically for this purpose there is no financial burden for the Council.
- 2.3 The proposals contained in this report will commit the Council financially in respect of:
- Spending the Neighbourhood proportion of CIL collected by the Council on an ongoing basis.
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3. Recommendation(s) / Proposed Decision

That Cabinet agree the following:

- (i) That the neighbourhood proportion collected in respect of development located within the Brixham Neighbourhood Plan area shall be passed directly to the Brixham Town Council to administer. With the spend of any funds received by the Brixham Town Council in respect of development located outside of the administrative area of the town council, (but located within the neighbourhood development plan area), shall be in consultation with the relevant Torbay Council members for the wards concerned.
- (ii) A standalone bidding process is introduced to determine what local projects the CIL Neighbourhood proportion should be spent on (as set out in the main body of the report). The establishment of the panel (CiL Spend Board) and its operation will be the responsibility of Torbay Council, but shall include representatives of the Neighbourhood Forums, Community Partnerships, Local Member(s) and the Cabinet Member for Infrastructure, Environment & Culture.
- (iii) Within a year of operation, or sooner if necessary, the bidding procedure, the make-up of the 'CiL Spend Board' and its operation should be reviewed. It will then be re-assessed against the success of Crowdfunding Torbay to determine whether the bidding process should continue, or be subsumed in whole, or part by Crowdfunding.

(ii) Appendices

None

Background Documents

Existing Torbay Council CIL documents including fact sheet and charging schedule can be viewed at:-

<https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/cil/>

Section 1: Background Information

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| 1. | <p>What is the proposal / issue?</p> <p>Agreement of the administrative process most appropriate for the Community Infrastructure Levy Neighbourhood proportion funds.</p> |
| 2. | <p>What is the current situation?</p> <p>There is currently no process in place although funds are being collected.</p> |
| 3. | <p>What options have been considered?</p> <p>The body of the report explains that the option of using the crowdfunding exists and this has the potential to successfully deal with bids for CIL funding in a transparent and open manner and also allows form community support to be confirmed and match funding achieved. On the face of it this presents a potentially ideal long term solution but has yet to be proven in the context of Torbay. Hence, an alternative bidding arrangement has been presented as a short term solution but could equally form the long term solution. The make-up of the selection panel does present options, however it is considered important to ensure that there is both community representation but critically democratically elected members of Torbay Council, as the Council are ultimately responsible for the collection of CIL and ensuring that it is spent appropriately.</p> |
| 4. | <p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>Priorities:</p> <ul style="list-style-type: none">• Thriving People and Communities• A Thriving Economy• A Climate Fit for the Future• A Council Fit for the Future <p>Principles:</p> <ul style="list-style-type: none">• Use reducing resources to best effect• Integrated and joined up approach |
| 5. | <p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p> <p>No conflicts identified.</p> |

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| <p>6.</p> | <p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>The proposal seeks to administer funds for local infrastructure provision which has the potential to address deprivation and reduce inequalities.</p> |
| <p>7.</p> | <p>How does the proposal/issue impact on people with learning disabilities?</p> <p>The proposal does not directly impact on those with Learning Disabilities/ autism or those living with mental health issues, however suitable infrastructure projects might be funded which could help to provide positive impacts on identified needs.</p> |
| <p>8.</p> | <p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>The proposal relies on community support to both bid for proposals, but also for a clear indication of community support for projects to be a success. The funds for example can be used to empower communities to provide their own infrastructure projects.</p> |

Section 2: Implications and Impact Assessment

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| 9. | <p>What are the financial and legal implications?</p> <p>The CIL funds are collected for the express purpose of providing local infrastructure and are ring-fenced for this purpose.</p> |
| 10. | <p>What are the risks?</p> <p>Whilst not a formal legal requirement, the relevant guidance provides for a clear expectation for the process to be transparent and directly involve the community. Funding of projects will require a robust process of financial management to ensure that funds are spent appropriately.</p> |
| 11. | <p>Public Services Value (Social Value) Act 2012</p> <p>N/A</p> |
| 12. | <p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The CIL funding regime is the subject of national guidance.</p> |
| 13. | <p>What are key findings from the consultation you have carried out?</p> <p>No formal consultation carried out with regard to proposed process, however consultation will be critical to identify potentially successful project bids.</p> |
| 14. | <p>Amendments to Proposal / Mitigating Actions</p> <p>Not directly applicable however options have been identified in the body of the report.</p> |

Equality Impacts

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|-----|---|--|---|-----------------------|
| 15. | Identify the potential positive and negative impacts on specific groups | | | |
| | | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact |
| | Older or younger people | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| | People with caring Responsibilities | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| | People with a disability | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| | Women or men | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| | People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| | Religion or belief (including lack of belief) | The aim of the process of CIL funding is to have a positive impact recognising the need to | | |

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| | ensure access for all the selected bidding opportunities. | | |
| People who are lesbian, gay or bisexual | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| People who are transgender | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| People who are in a marriage or civil partnership | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| Women who are pregnant / on maternity leave | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| Socio-economic impacts (Including impact on child poverty issues and deprivation) | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| Public Health impacts (How will your proposal impact on the general health of the population of Torbay) | The aim of the process of CIL funding is to have a positive impact recognising the need to ensure access for all the selected bidding opportunities. | | |
| 16. Cumulative Impacts – Council wide (proposed changes elsewhere which might | Consideration of the cumulative impacts across the Council will be undertaken during a review of the operation of the selected process. | | |

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| | worsen the impacts identified above) | |
| 17. | Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above) | Consideration of the cumulative impacts across the Council will be undertaken during a review of the operation of the selected process. |



Meeting: Cabinet

Date: 11th August 2020

Wards Affected: All Wards in Torbay

Report Title: Review of Pest Control services

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Councillor Mike Morey - Cabinet Member for Infrastructure, Environment and Culture, Mike.Morey@torbay.gov.uk

Supporting Officer Contact Details: Kevin Mowat – Director of Place, (01803) 208433, Kevin.Mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 The Council's pest control service for residential properties formed part of the contract between Torbay Council and TOR2, which was in operation between 2010 and 2020. It was a requirement of the contract that the treatment of rat and mice infestation should be a free of charge service, whereas the response to other pest problems were a chargeable service.
- 1.2 The TOR2 contract ended on the 30th June and services continue to be delivered by SWISCo, a new company wholly owned by Torbay Council. Services delivered by SWISCo are covered by a commissioning agreement rather than a formal contract.
- 1.3 An opportunity exists to review the provision of pest control services for residential properties.
- 1.4 It is proposed that SWISCo are requested to offer a chargeable service for all forms of residential pest control, including the treatment of rats and mice.

2. Reason for Proposal and associated financial commitments

- 2.1 Pest control in residential properties is not a statutory function and the Council has not provided this service directly for over 10 years. The Council could decide to simply provide advice and guidance, like many other local authorities, and remove the current obligation for SWISCo to provide a free service for rats and mice.

- 2.2 All of the pest control services previously provided by TOR2 were chargeable to the householder with the exception of those dealing with the treatment of rats and mice inside the home. SWISCo would be able to continue to provide a response for rats and mice but apply a charge, which is a common practice with many other Councils.
- 2.3 Many local authorities no longer offer pest control services because there are qualified service providers working in their area. Many household pests can be dealt with by using humane traps and chemicals available in shops and DIY stores. Residents can also be advised to call in the experts to solve a persistent problem with pests. If householders require professional help they can use the internet, trade or business directory to find a suitably qualified service provider.
- 2.4 The Council can provide advice and guidance on pest control via its website, including the information contained in 2.3 above. If residents are looking for a pest control contractor they can be advised to get more than one quote and to check that the company undertaking the work is competent. Furthermore the public could also be directed to the SWISCo website (currently under development) where a chargeable service can be offered.
- 2.5 The Council's budget for 2020/21 assumes that the formation of SWISCo, together with the end of the TOR2 contract, will deliver an overall budget reduction of approximately £1.3m. Proposals contained in this report will greatly assist SWISCo in delivering these anticipated savings.
- 2.6 The recommendation, if approved, would bring the Council in line with many other local authorities, which have already removed free pest control services. There is no legal duty for councils to provide this service and as can be seen in Appendix 1, in some areas it is not provided at all.
- 2.7 In line with many other local authorities, Torbay is under increasing financial pressure and this was already the case before COVID-19 struck but we know that Torbay Council are forecasting an overall overspend on the revenue budget, at period 2, of £4.8m. It therefore seems both prudent and logical to make the decision to remove our free pest control service, which a large number of other councils have already done.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Council should instruct SWISCo to cease providing the existing free pest control service, for residential properties, from 1st September 2020.
- 3.2 That SWISCo Ltd is requested to offer a chargeable pest control service and that improved pest control guidance and advice is provided to the public via the Council website.

Appendices

Appendix 1: Local Authority Pest Control Service Comparison Table

Background Documents

None

Section 1: Background Information

1. What is the proposal / issue?

An opportunity exists to review the provision of pest control services for residential properties.

It is proposed that SWISCo are requested to offer a chargeable service for all forms of residential pest control, including the treatment of rats and mice.

Pest control in residential properties is not a statutory function and the Council has not provided this service directly for over 10 years. The Council could decide to simply provide advice and guidance, like many other local authorities, and remove the current obligation for SWISCo to provide a free service for rats and mice.

It is proposed that the Council should instruct SWISCo to cease providing the existing free pest control service, for residential properties, from 1st September 2020.

Furthermore it is proposed that SWISCo Ltd is requested to offer a chargeable pest control service and that improved pest control guidance and advice is provided to the public via the Council website.

2. What is the current situation?

The Council's pest control service for residential properties formed part of the contract between Torbay Council and TOR2, which was in operation between 2010 and 2020. It was a requirement of the contract that the treatment of rat and mice infestation should be a free of charge service, whereas the response to other pest problems were a chargeable service.

On the 30th June 2020 the TOR2 contract ended and services continue to be delivered by SWISCo, a new company wholly owned by Torbay Council. Services delivered by SWISCo are covered by a commissioning agreement rather than a formal contract.

The table below shows data from the pest control service provided by TOR2 in recent years.

| Year | No. of pest control visits | Charge per visit to TOR2 | Annual Cost |
|--|----------------------------|--------------------------|--|
| 2018 | 709 | £68.50 | £48,566.50 |
| 2019 | 659 | £68.50 | £45,141.50 |
| 2020 (6 months to 30 th June) | 273 | £68.50 | £18,700.50 (Pro-rata reduction likely to be caused by Covid-19) |

| | |
|------------------|---|
| | <p>The majority of call-outs related to problems with rats or mice but the breakdown of calls is set out below :- 2018 – 700 rats or mice, 7 wasps, 2 fleas 2019 – 646 rats or mice, 7 wasps, 3 fleas, 2 hornets, 1 ‘Other’. 2020 – 273 rats or mice</p> <p>With regards to duplicate visits there are quite a few.</p> <p>2018 – 97 out of the 709 ~ TOR2 visited 612 individual households 2019 – 83 out of the 659 ~ TOR2 visited 576 individual households 2020 – 38 out of the 273 ~ TOR2 visited 235 individual households (Jan-Jun)</p> |
| <p>3.</p> | <p>What options have been considered?</p> <p><u>Option 1</u> Continue to provide the existing free service for the domestic control of rats and mice at a cost of approximately £45,000 per annum. This was discounted because it was clear that an opportunity existed to bring Torbay in line with the majority of other local authorities within the region and at the same time deliver on a budget saving that was expected.</p> <p><u>Option 2</u> Extend the existing pest control chargeable services to include a charge for the treatment of rats and mice. This was discounted because an opportunity existed to provide better clarity about how these services are provided i.e. either by the market or by an approved contractor. A direct service from Torbay Council has not been provided for many years and an in house pest control service would be too small and unsustainable.</p> <p><u>Option 3</u> Cease the service completely both chargeable and free of charge; and direct the public to pest control contractors in the marketplace, including companies wholly owned by Torbay Council i.e. SWISCo. This is the recommended option.</p> |
| <p>4.</p> | <p>What is the relationship with the priorities within the Partnership Memorandum and the Council’s Principles?</p> <p>The provision of a free pest control service to tackle infestation by rats and mice will have had an impact to suppress the market. Consequently the removal of a free service will assist a thriving economy.</p> <p>It is clear that the majority of other local authorities in our region have already moved to a chargeable service and therefore this decision supports the Council to be fit for the future.</p> <p>This report sets out how this decision would allow the authority to use reducing resources to best effect.</p> <p>It is proposed that by proving good public information on pest control, via the Council’s website and social media content, we can reduce demand through prevention and innovation.</p> |

| | |
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| | <p>SWISCo will work closely with colleagues in Environmental Health and Public Health to ensure that an integrated and joined up approach is taken to enforcement and education to reduce incidents of avoidable infestation.</p> |
| 5. | <p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p> <p>This proposal does not impact directly on the Council's responsibilities as corporate parents.</p> |
| 6. | <p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>This proposal does not tackle poverty, deprivation and vulnerability. There is a small risk that this proposal could have a negative impact on poverty, deprivation and vulnerability. It is therefore important that Torbay Council keep this issue under review and apply suitable intervention measures, if considered appropriate, on a case by case basis.</p> |
| 7. | <p>How does the proposal/issue impact on people with learning disabilities?</p> <p>This proposal does not impact directly on people with learning disabilities, autism or those living with mental health issues.</p> |
| 8. | <p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>This proposal could affect any household in the Bay but if they have never had the benefit of the free service previously they would not necessarily be aware of the impact. Any household that has used this free service on a frequent basis will, by definition, have other underlying issues that are causing an infestation of rats or mice. These issues would need to be tackled in any event and the response to such problems would not be the ongoing continuation of a free to use service. Given these circumstances a consultation exercise was not considered appropriate.</p> <p>The Council can empower the community by continuing to provide high quality environmental and public health advice through a range of different platforms, including well established community groups and associated support networks.</p> |

Section 2: Implications and Impact Assessment

9. What are the financial and legal implications?

Under the old TOR2 contract a free pest control service was required to be provided to domestic properties in Torbay. The table below shows a broad summary of service usage and cost to TOR2.

| Year | No. of visits | Charge per visit to TOR2 | Annual Cost |
|--|---------------|--------------------------|--|
| 2018 | 709 | £68.50 | £48,566.50 |
| 2019 | 659 | £68.50 | £45,141.50 |
| 2020 (6 months to 30 th June) | 273 | £68.50 | £18,700.50 (Pro-rata reduction likely to be caused by Covid-19) |

It is clear that Torbay Council has an opportunity to make a saving of approximately £45,000 per year by not providing a free pest control service to domestic premises. This saving has already been assumed by way of a reduced contract/commissioning fee payable to SWISCo. If the free service is continued then SWISCo will require additional funding.

Pest control in residential properties is not a statutory function and so the Council can decide to cease providing the service or make it a chargeable service.

10. What are the risks?

There is a small risk of a 'cost shunt' to Community Safety as the statutory duty remains to keep ALL land free from rats (and mice), which is done through statutory powers to serve notice and do works in default. The removal of the domestic service may lead to some increased demand in this area. This risk can be mitigated through the ongoing provision of high quality environmental and public health advice, along with enforcement action where appropriate.

11. Public Services Value (Social Value) Act 2012

This proposal does not require the procurement of services or the provision of services or the hire of goods or the carrying out of works.

12. What evidence / data / research have you gathered in relation to this proposal?

See Appendix 1.

13. What are key findings from the consultation you have carried out?

| | |
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| | <p>A consultation exercise has not been undertaken for the reasons highlighted in section 8 above. This matter was not specifically addressed or consulted upon during the budget setting process and it is therefore necessary to request a formal in-year decision from Cabinet.</p> |
| <p>14.</p> | <p>Amendments to Proposal / Mitigating Actions</p> <p>The Council can mitigate against the potential impact of this proposal by continuing to provide high quality environmental and public health advice through a range of different platforms. Furthermore this education and advice can be supported through our well established community groups and associated stakeholder advisory networks for citizens. It will also be necessary to undertake enforcement action from time to time, especially in respect of waste management to prevent rodent infestation.</p> |

Equality Impacts

| 15. | Identify the potential positive and negative impacts on specific groups | | | |
|-----|---|-----------------|--------------------------------------|---------------------------------|
| | | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact |
| | Older or younger people | | | There is no differential impact |
| | People with caring Responsibilities | | | There is no differential impact |
| | People with a disability | | | There is no differential impact |
| | Women or men | | | There is no differential impact |
| | People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> | | | There is no differential impact |
| | Religion or belief (including lack of belief) | | | There is no differential impact |
| | People who are lesbian, gay or bisexual | | | There is no differential impact |
| | People who are transgendered | | | There is no differential impact |
| | People who are in a marriage or civil partnership | | | There is no differential impact |
| | Women who are pregnant / on maternity leave | | | There is no differential impact |

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| | | | |
| | Socio-economic impacts (Including impact on child poverty issues and deprivation) | | This proposal does not tackle poverty, deprivation and vulnerability. There is a small risk that this proposal could have a negative impact on poverty, deprivation and vulnerability. It is therefore important that Torbay Council keep this issue under review and apply suitable intervention measures, if considered appropriate, on a case by case basis. |
| | Public Health impacts (How will your proposal impact on the general health of the population of Torbay) | | This proposal could have an impact on public health if it results in an increase level of rodent infestation in households. However, the Council will continue to provide high quality environmental and public health advice through a range of different platforms. |
| 16. | Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above) | None | |
| 17. | Cumulative Impacts – Other public services (proposed changes elsewhere which might | A failure in our domestic waste collection service could lead to higher levels of rodent infestation. Pest control services remain readily available within the marketplace. | |

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| worsen the impacts identified above) | |
|---|--|

Appendix 1

Local Authority Pest Control Service Comparison Table

The following table provides a summary of the current approach to pest control adopted by neighbouring local authorities :-

| Local Authority | Pest Control Service – Domestic Premises |
|------------------------------|---|
| Plymouth City Council | Chargeable service |
| Exeter City Council | Chargeable service |
| Cornwall Council | No service provided |
| North Devon Council | No service provided |
| Torridge District Council | No service provided |
| North Dorset | No service provided |
| West Dorset | No service provided |
| Weymouth & Portland | No service provided |
| East Devon | Chargeable service |
| East Dorset | Chargeable service |
| Purbeck | Chargeable service |
| South Gloucestershire | Chargeable service |
| Teignbridge District Council | Free service - rats & mice only |
| South Hams District Council | Free service - rats & mice only |

Meeting: Cabinet

Date: 11th August 2020

Wards Affected: All

Report Title: Licensing Act 2003 – Draft Licensing Statement of Principles 2021 to 2026

Is the decision a key decision? Yes

When does the decision need to be implemented? 7th January 2021

**Cabinet Member Contact Details: Cllr Christine Carter, (01803) 207313,
Christine.Carter@torbay.gov.uk**

**Supporting Officer Contact Details: Steve Cox, Environmental Health Manager
(Commercial) (01803) 209029, steve.cox@torbay.gov.uk**

1. Proposal and Introduction

- 1.1 In accordance with Section 5 of the Licensing Act 2003, the Council is required every 5 years, to review, consult and republish its Licensing Statement of Principles (The Statement). The current Statement was published on 7th January 2016 and therefore, it must be reviewed, consulted upon and re-published, on or before 6th January 2021.
- 1.2 This report introduces the proposed revision to the Council's draft Statement 2021 to 2026, prior to consultation and ultimate adoption by Full Council on 3rd December of this year.
- 1.3 The Cumulative Impact Policy (CIP), which has always formed part of the Statement, now stands alone from it following a change in legislation. This will now be required to be reviewed every 3 years and therefore, will run from 2021 to 2024. This report therefore, also introduces the revised draft CIP 2021 to 2024, which will be consulted alongside the draft Statement.
- 1.4 The significant changes to the draft Statement are based around the business friendly recommendations from the Evening and Night Time Economy Solutions Ltd review of Torquay Evening and Night Time Economy In May 2019, along with emerging issues and good practice from the past five years.

2. Reason for Proposal and associated financial commitments

- 2.1 To meet a statutory obligation as prescribed under Section 5 (1) Licensing Act 2003, which requires that the Licensing Authority (defined as a District Council of England or Wales) publish a Statement and review and re-publish the same, every 5 years.

- 2.2 The proposals contained in this report will not commit the Council financially in any regard, other than staff and consultations costs which will be drawn from existing budgetary resources.
-

3. Recommendation(s) / Proposed Decision

- 3.1 That Cabinet approves the draft Licensing Statement of Principles 2021 to 2026, for public consultation.
- 3.2 That the Council approves the draft Cumulative Impact Policy 2021 to 2024, for public consultation.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Draft Licensing Statement of Principles 2021 to 2026

Appendix 3: Draft Cumulative Impact Policy 2021 to 2024

Background Documents

Licensing Act 2003

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

Licensing Statement of Principles 2016 to 2021

<https://www.torbay.gov.uk/media/2993/licensing-statement-of-principles-2016-final.pdf>

Statutory Guidance issued under section 182 Licensing Act 2003

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Section 1: Background Information

| | |
|-----------|--|
| 1. | <p>What is the proposal / issue?</p> <p>Torbay Council has a statutory responsibility under Section 5 (1) of the Licensing Act 2003 (the Act) to review, consult and to re-publish its Licensing Statement of Principles (the Statement). In doing so it is following the guidance in what needs to be included within that Statement.</p> <p>It is also necessary to review the Councils Cumulative Impact Policy (the CIP), which, following a change to the Act (Section 5A) that was introduced by section 141 of the Policing and Crime Act 2017 on 6th April 2018, is now placed on a statutory footing requiring separation from the Licensing Statement of Principles and to be reviewed every 3 years.</p> <p>In both cases the process of review, consultation and publication must be completed on or before 6th January 2021.</p> |
| 2. | <p>What is the current situation?</p> <p>The Statement identifies how the Council will perform its role as Licensing Authority in relation to the licensing process for the sale and supply of alcohol, regulated entertainment and late night refreshments.</p> <p>The Council is not required to identify a CIP area, however, it may do so in areas where there is increased crime and/or disorder that is caused by the cumulative effect of a number of licensed premises in the one area. The Council has therefore, adopted such a policy for the area around the harbour side in Torquay and through Fleet Street and the Castle Circus areas.</p> <p>The Act generally carries a rebuttable presumption to grant an application for a new or a variation to a Premises Licence. The effect of a CIP is that any such application received in the area of a CIP, will instead carry a rebuttable presumption to refuse. This places the onus upon the applicant to illustrate how they would adequately promote the licensing objectives as part of their operation were the application to be granted. The draft CIP, has been amended to only apply a rebuttable presumption to refuse for 'vertical drinking establishments', late Night Refreshment and 'Off Licences', in the revised CIP area.</p> <p>Both the Policy and the CIP must undergo full consultation as prescribed under the Act, unlike other Licensing functions, they must be agreed by Full Council and published by the statutory dates.</p> |
| 3. | <p>What options have been considered?</p> <p>No other options have been considered as this is a statutory requirement.</p> |

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| <p>4.</p> | <p>What is the relationship with the priorities within the Partnership Memorandum and the Council’s Principles?</p> <p>The Statement ensures clarity as to how the Council will fulfil its role as Licensing Authority and provides clarification and guidance to businesses and the public alike.</p> <p>The Statement has been amended to support a thriving evening and night time economy and to stress the importance of all partners working together achieve this. It seeks to support cultural elements within this economy, which represents 24% of the Torbay economy, and COVID 19 aside, is seen as a growing sector. It also assists business to function safely and within the law. It therefore helps to promote three of the priorities, namely thriving people and communities, thriving economy and a council fit for the future.</p> <p>By making clear what is required and expected both from the Council and reciprocally from businesses, this assists in using resources to the best effect and helps to reduce the demand on resources by reducing the levels of intervention through enforcement activity. It is also seeking to support businesses, with the emphasis of the document being changed to work in partnership.</p> <p>Key throughout the Policy, is the partnerships forged through the licensing functions, particularly with Police partners and other Council departments. This therefore promotes the key principle of maintaining an integrated and joined up approach.</p> |
| <p>5.</p> | <p>How does this proposal/issue contribute towards the Council’s responsibilities as corporate parents?</p> <p>One of the four licensing objectives is the Protection of Children from Harm. Licence holders and applicants are expected to promote this (and the other three objectives at all times). The Policy outlines the expectations of applicants and Licence holders in this regard.</p> <p>It is also important to note that the Local Children’s Safeguarding Board are a named responsible authority under the Act, this means that they are advised of every application that is received and have opportunity to make comment or representation.</p> <p>The Local Children’s Safeguarding Board are active throughout the application process and often exercise their right to comment. They will also be consulted as part of this Policy review.</p> |
| <p>6.</p> | <p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>The Statement aims to be more business supporting, implementing the report recommendations of the review undertaken by Night Time Economy Solutions Ltd in May 2019. This especially includes alterations to the Cumulative Impact Policy, which focuses on the types of business that may</p> |

| | |
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| | <p>lead to nuisance and disorder collectively and not as previously, on all businesses. This should support a stronger economy, which will then have a positive impact on poverty and deprivation.</p> |
| 7. | <p>How does the proposal/issue impact on people with learning disabilities?</p> <p>No impact either positive or negative - neutral</p> |
| 8. | <p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>The holders of Premises licences and future applicants are those that are more directly affected by this Statement. These are businesses and business operators that provide alcohol, regulated entertainment and/or late night refreshments.</p> <p>The Statement, however looks to protect the public who may be affected by public nuisance or Crime and Disorder</p> <p>In accordance with Section 5 (3) of the Act, the Policy must be consulted widely with key consultees, which is interpreted within the Statement to be the following:</p> <ul style="list-style-type: none"> a) The Chief Officer of Devon and Cornwall Police b) The Chief Officer of Devon and Somerset Fire and Rescue Service c) The Director of Public Health d) Residents and businesses of Torbay e) Bodies representing businesses f) Holders of Premises Licences and Club Premises Certificates g) Bodies representing existing registered clubs h) Bodies representing holders of existing premises licences and personal licences i) Torbay and Southern Devon Health & Care NHS Trust j) Torbay Council: Children's Services k) Torbay Council: Planning, Environmental Health and Highways Authorities l) The Torbay Safer Communities Partnership m) The Maritime and Coastguard Agency n) Faith groups via Torbay Interfaith Forum and the Street Pastors o) Torbay Development Agency p) English Riviera BID Company q) Torbay Harbour Authority |
| | |

Section 2: Implications and Impact Assessment

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| 9. | <p>What are the financial and legal implications?</p> <p>There are no significant additional resource implications that will derive from the Council discharging its statutory obligations, under the Act, though appeals against Licensing Authority decisions do place some additional burden on resources. This is however the due process of law.</p> |
| 10. | <p>What are the risks?</p> <p>The risks are more associated with any failure to review and re-publish the Statement in time as the effect would be that the Council would have no Policy in place, which effectively would prevent lawful discharge of functions under the Licensing Act 2003, which may lead to legal challenge against the Council and financial penalties being incurred.</p> <p>The risks associated with agreeing the Statement are minimal as it has been reviewed in line with regulatory requirements, which include full consultation and consideration of any comments that are received.</p> |
| 11. | <p>Public Services Value (Social Value) Act 2012</p> <p>Does not apply</p> |
| 12. | <p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Research and data has been compiled in relation to the CIP. This is a requirement in order to justify the retention of the CIP and to ensure that evidence exists in order to defend the Council's position should this be necessary.</p> |
| 13. | <p>What are key findings from the consultation you have carried out?</p> <p>Consultation to run between xx August and xx October 2020</p> |
| 14. | <p>Amendments to Proposal / Mitigating Actions</p> <p>To be completed following consultation</p> |

Equality Impacts

| | | | |
|---|---|---|-----------------------|
| 15. | Identify the potential positive and negative impacts on specific groups The Policy is a review of an existing Policy and therefore there is no change to impact of specific groups. Where there exists any potential for impact, this would generally be through the application process where there is the safeguard that any responsible authority or 'other person' may make representation. The four licensing objectives are also designed to ensure consideration of any impacts. | | |
| | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact |
| Older or younger people | X (young people) | | |
| People with caring Responsibilities | | | X |
| People with a disability | | | X |
| Women or men | | | X |
| People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> | | | X |
| Religion or belief (including lack of belief) | | | X |
| People who are lesbian, gay or bisexual | | | X |
| People who are transgendered | | | x |

| | | | |
|-----|---|------|---|
| | | | |
| | People who are in a marriage or civil partnership | | X |
| | Women who are pregnant / on maternity leave | | X |
| | Socio-economic impacts (Including impact on child poverty issues and deprivation) | X | |
| | Public Health impacts (How will your proposal impact on the general health of the population of Torbay) | | X |
| 16. | Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above) | None | |
| 17. | Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above) | None | |

Torbay Council's Statement of Principles 2021-2026

Licensing Act 2003

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The 'Licensing Statement of Principles 2021-2026 was ratified and adopted by Full Council on XXXXXXXXXX

Torbay Council's Statement of Principles 2021-2026

Introduction

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

This document is Torbay Council's "Statement of Principles", made under Section 5 of the Licensing Act 2003, and has effect for the period of 7 January 2021 to 6 January 2026.

Torbay, also known as The English Riviera, is a popular, well-established holiday destination situated on the South Devon Coast, on the South West peninsular of England. It has a population of over 135,000 which can increase to over 200,000 in the summer months.

The area comprises of the three towns of Torquay, Paignton and Brixham, and is known for its mild climate, picturesque harbours, coves and beaches, and is home to numerous tourist attractions.

It offers 22 miles of beautiful coastline and is only one of seven places in the entire UK that has been designated a UNESCO (United Nations Educational, Scientific and Cultural Organisation) Global Geopark.

Torbay Council, Town Hall, Castle Circus, Torquay, TQ1 3DR

www.torbay.gov.uk

MAP of TORBAY



**If you require this document in another format please call
01803 208025 or email licensing@torbay.gov.uk.**

STATEMENT OF PRINCIPLES

This Statement of Principles (hereinafter referred to as 'the Policy') applies to the regulation of the following licensable activities at premises, vessels and members' clubs:

- (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 23:00 and 05:00.

This fifth Statement is made following consultation with:

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

The aim of this Policy is to secure the safety and amenity of residential and business communities whilst facilitating a sustainable entertainment and cultural industry. In adopting this Policy, Torbay Council (hereinafter referred to as 'the Council') recognises both the needs of residents and those businesses not covered by the provisions of the Licensing Act 2003 (hereinafter referred to as 'the Act'), to live and operate in a safe and healthy environment and the important role that well run licensed premises play in the local economy and in contributing to vibrancy of the Bay. To achieve this aim, the Council is committed to working in continued partnership with nominated Responsible Authorities under the Act, local businesses, members of the licensed trade, residents and visitors to the Bay to promote the licensing objectives, as set out in this Policy.

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

- 1.1 The purpose of this Policy is to outline the approach that Torbay Licensing Authority (hereinafter referred to as 'the Authority') will take to implement the Act. The Policy provides guidance for Applicants, Residents and Responsible Authorities under the Act. Responsible Authorities include the Council's Licensing Team, Health and Safety, Environmental Health, Planning, Trading Standards and Children's Services as well as the Police, Public Health, the Fire Authority and the Home Office.
- 1.2 This Policy, along with current national guidance issued by the Secretary of State and primary legislation, as set out in the Act, forms the basis on which licensing decisions are made and how licensed premises are likely to be permitted to operate.
- 1.3 The Act also outlines five key aims to support and promote good practice. These are:
- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
 - Giving the police and licensing authorities the powers they need to manage and police the night-time economy effectively and take action against those premises that are causing problems;
 - Recognising the important role which pubs and other licensed premises play in our local communities, minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
 - Providing a regulatory framework for late night refreshment, and regulated entertainment which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
 - Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.
- 1.4 The Authority acknowledges the important role which pubs and other licensed premises play in both tourism and in local communities. The Authority therefore believes that providing licensed premises operate as compliant, well-regulated businesses and that their management act responsibly in promoting the licensing objectives; they make a positive contribution towards building local communities and supporting cultural development and Torbay's tourism offer. It is also important to appreciate that alcohol does play an important and inherent role within the leisure and entertainment industry.

- 1.5 The Authority equally recognises, however, that negative impacts will occur if good management practices are not followed by licensed premises. These can include anti-social behaviour, nuisance and disturbance caused to local residents, sometimes together with serious crime and disorder problems. Alcohol, in particular, is an important contributing factor to all of these issues. Alcohol-related violence, disorder and rowdiness impacts on our community, public health and the public purse through the demands made upon hospital attendances and admissions; additional policing; additional street cleaning; and the criminal justice system. The Authority does not consider that it is reasonable for local residents and compliant businesses to suffer because of a small number of irresponsible, poorly managed operators.
- 1.6 This Policy, therefore, seeks to provide a necessary balance between providing a platform upon which compliant, well-regulated businesses may operate and contribute towards a successful business and night-time economy, and ensuring that the quality of life of those who live and work in the Bay are protected through our robust licensing procedures. We believe these aims are achievable if all parties concerned work together.
- 1.7 The Authority, has a duty under the Act to carry out it's licensing functions with a view to promoting the four Licensing Objectives set out below:

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

- 1.8 The Authority will treat each Licensing Objective with equal importance.
- 1.9 While this Policy sets out a general approach to making licensing decisions, the Authority accords with the provisions in the Act. The Policy does not undermine the right of any individual to apply under the terms of the Act for a variety of permissions and the Authority will consider each application on its individual merits.
- 1.10 This Policy does 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.
- 1.11 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 to modify it, by imposing a condition(s) in order to

promote one or more the Licensing Objectives. Conditions imposed will be reasonable and proportionate.

- 1.12 In recognition of its responsibilities under Section 17 of the Crime and Disorder Act 1998, and within the strategic aims of the Safer Communities Torbay Strategic Assessment, the Authority will work together with businesses, charities and partner agencies to prevent crime and disorder in Torbay.
- 1.13 The Authority recognises 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.
- 1.14 The Authority is also aware of 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. This Act replaces previous legislation (such as the Race Relation Act 1976, Disability Discrimination Act 1995).
- 1.15 The Authority is committed to achieving good outcomes for children, young people and their families. Children of all ages need to be kept safe from harm and safeguarding is about making sure that they are protected from all kinds of harm, not only physical and sexual but also psychological, emotional and moral harm. Where there is an actual or perceived risk of harm, it is important that appropriate steps are taken by the Authority to keep children safe. The Authority will have regard to any such risk when considering applications and seek to promote the Licensing Objectives.
- 1.16 The Authority is aware that effective licensing can only be achieved by recognising the value of collective contributions. The Authority strongly supports inclusivity and partnership working 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 Authority encourages membership of local schemes such as NiteNet, Best Bar None, Pub watch and StoreNet and values the contribution such schemes make to the fulfilment of the Licensing Objectives. An example of good partnership working is the twice yearly Licensing Forums, whose collective aim is to work with and support businesses in the Bay.
- 1.17 The Authority considers that its decisions can be a key factor in the control of anti-social behavior. Whilst the Authority 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, where there is a causal link between the behavior complained of and patrons of a licensed premises, it is expected that the Premises Licence Holder will take immediate steps to mitigate such impact within the vicinity of their premises.

Premises Licence Holders will be required to demonstrate that they have taken and intend to take appropriate action in this respect. Any conditions attached to licences will be within the control of the Premises Licence Holder 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.

1.18 The Authority 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 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 that it is appropriate to do so. Appendix 4 gives examples of the impact that certain types of premises may have on the surrounding area. Where representations are received, the Authority will refer to this Appendix and therefore Applicants are encouraged to use this to assist them in understanding the operating hours and the types of conditions they need to cover in their operating schedule.

1.19 The Authority is satisfied, having been advised by and provided with supporting data from Devon and Cornwall Police, that the night time economy is on occasions subject to crime and disorder problems which can lead to noise disturbance in some residential and commercial accommodation areas. Therefore the Authority has written a Special Saturation Policy, otherwise known as a Cumulative Impact Policy, which is now separated from this Policy, but needs to be read in conjunction with it. Where an application for a new licence, or variation of an existing licence falls within the Special Saturation Policy designated areas, there exists a rebuttable presumption that such applications would normally be refused, where a representation is received and it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area. The Special Saturation Policy will predominantly apply to 'vertical drinking establishments', 'Off Licences' and late night refreshment premises and not normally to business which are food orientated. The Authority actively encourages food orientated businesses in these designated areas. The Special Saturation Policy designated areas can be found on the Council webpage [XXXXXX](#)

1.20 Premises which are permitted to provide sales of alcohol for consumption off the premises may be subject to conditions that limit trading hours and restrict types

and maximum 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 that it is appropriate to do so.

- 1.21 In the case of age classifications for films, the Policy of the 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.
- 1.22 In general, all premises which are the subject of a licensing application should have the benefit of planning permission or be deemed permitted development. Licensing and Planning are separate regimes but consents from both must be in place to operate legally. The Licensing Authority, as per paragraph 9.45 in the Section 182 Statutory Guidance, requires the two committees to work together to achieve a common agreement. If there is variance between the hours given under a licence and those permitted by the planning permission, the earlier hours will apply.
- 1.23 The Authority's 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.
- 1.24 The 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 shall also be encouraged and promoted for the wider cultural benefit of the community in Torbay. Some departments within the Council have obtained licences 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 Authority's 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 only impose restrictions that are appropriate, proportionate and reasonable as licensing conditions.
- 1.25 The Authority recognises 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. The Authority 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.

1.26 The Authority recognises that licensing seeks:

- a) To control the physical safety of people using a location, however it 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.

1.27 To prevent the use of illegal drugs, or psychoactive substances (previously known as 'legal highs') in licensed premises, Premise licence Holders are encouraged to implement actions referred to in following documents:

'Safer Clubbing' http://www.csdp.org/research/safer_clubbing_txt.pdf

Safer Night Life

http://newip.safernightlife.org/pdfs/digital_library/uk_safer_nightlife_guideline.pdf and

WAVE

<https://nbcc.police.uk/article/?id=b2cd2a7d17d92c915996003a0473a4b8>

The Authority 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.

1.28 The Authority recommends that all Applicants' seeking to supply alcohol should have had regard to, 'The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

1.29 While the Authority recognises that clear enforcement protocols for licensing and associated activities are essential, this will be achieved through close partnership working; notably the Police, Fire and through its Public Safety Advisory Group. It also recognises that in most cases, education and the support of businesses is likely to have longer term impact to ensure proper consideration is given to the four Licensing Objectives. It will, however, ensure that resources are targeted at problem and high risk premises and events, when required.

1.30 The Authority will review this Policy, at least once in every five years. The Special Saturation Policy will also be kept under review and considered by the Authority, at least every three years or sooner, if necessary, to ensure that it is still required.

SECTION 2 - Primary considerations when an application is made

The Licensing Authority will:

- 2.1 Deal with all applications within the statutory timescales.
- 2.2 Where relevant representations are received, 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.
- 2.3 Expect the Applicant to articulate clearly the type of venue they will be operating and 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 is 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 2 for further information on what to consider in your operating schedule.)
- 2.4 Consider 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.
- 2.5 The Authority supports 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 Authority may grant permission under Section 115E of the Highways Act 1980 for an Applicant to use the public highway outside their 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. Applicants’ are reminded that either the proposed area of the public highway is included within their premises licence plan, or the premises licence must authorise off sales, as this is required where the pavement cafe area is not included on their plan.

2.6 'Special Risk Entertainment' events, are 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;

Applicants' must specify clearly in their Operating Schedule, details of any 'Special Risk Entertainment' to be provided.

* 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' as sex establishments governed by the Act as amended. The Authority adopted the legislation in so far as it relates to sexual entertainment venues on the 2nd December 2010. Under the Act as amended, premises offering lap dancing or any live sexual performance or display of nudity on more than 11 occasions within a 12 month period or less than one month since the last performance will be required to obtain a sexual entertainment venue licence from the Council's Licensing Authority to authorise such activity. The Authority has drawn up a statement of Licensing Policy for Sex Entertainment Venues which was agreed by Licensing Committee on the 17th March 2011.

2.7 The Authority requires individuals who are applying for a personal licence to be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected.

The Authority will not issue a personal licence to an individual who is illegally present in the UK, and is not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity. In order to discharge this duty, the Authority must be satisfied that an Applicant has the right to work in the UK as required on the back of the application form, to demonstrate that the Applicant has permission to be in the UK and that they are permitted to undertake work in a licensable activity. This also applies to individuals who apply for premises licences. The purpose of this is to prevent illegal working in the UK.

A person is also disqualified from holding a licence if they are subject to a condition on their permission to be in the UK preventing them from holding a licence, for example if they are subject to an immigration restriction that does not permit them to work.

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 proceed to a hearing, following which the Authority may take such steps as are appropriate to promote the Licensing Objectives. In considering the application, the 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 Authorities, consider the matters set out below and incorporate them as necessary into their Operating Schedule

Where there have been relevant Representations, the 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 gambling;
 - (x) the sale of smuggled tobacco and alcohol.

- b) The measures the Applicant has taken or proposes to take to:-
 - (i) To prevent the consumption or supply of illegal drugs and psychoactive substances (previously known as 'legal highs'), including a written drugs Policy, any entry and search procedures, 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, and in respect of premises selling alcohol after midnight with a capacity of 500 or more, the provision of a drugs box and register.

- (ii) To improve security or public safety, for example by:
- using CCTV of an evidential standard which is continually monitored with recordings retained for 14 days;
 - undertaking a risk assessment for the employment of appropriate numbers of SIA registered door supervisors for security duties and / or stewards for general public service or management (see Appendix 2 for further information). They shall be visible at all times and locations by wearing high visibility personal arm band identification.
 - keeping and maintaining a daily premises register of SIA registered door stewards (see Appendix 2 3 for further information)
 - the adoption of a 'safe capacity' necessary for the promotion of public safety or the prevention of disorder on the premises, part of the premises or at an event.
 - setting a maximum bag size policy during ENTE periods and carry out regular random bag searches
 - providing cloakroom facilities for bag and coat storage
 - random use of metal detectors in premises selling alcohol after midnight with a capacity of 500 or more persons
 - ensure door stewards remain on duty until all customers have left the vicinity to ensure no crime, disorder or public nuisance whilst they are dispersing.
- (iii) To determine that when employing SIA registered door supervisors, licence holders have considered:
- (a) Recruiting Security Industry Authority(SIA) licensed door supervision staff from a company that is compliant with the requirements set out in the Security Industry Authority Approved Contactor Scheme (visit the SIA website www.sia.homeoffice.gov.uk for further information); 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. Torbay Council recommends the use of the SIA Company Licence Checker facility (visit the SIA website www.sia.homeoffice.gov.uk for further information).
- (iv) To help 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 to the location and style of the

premises/event, the times of opening, as well as features such as outside roof terraces, indoor sporting events, and televised sporting events. The use of plastic/polycarbonate vessels is recommended in late night vertical drinking establishments and to prohibit glass bottles from which it is intended or likely that a person will drink in these premises from 11.00 pm

- (v) To help facilitate effective communications by means of radio communications, i.e. Storennet and nitenet pagers or by other means to enable instant contact with the CCTV Monitoring Room and other licensed premises in a locality, to warn of situations of disorder or potential disorder and to advise other premises of individuals ejected or refused entry to their premises
- (vi) To be able to demonstrate a responsible approach to alcohol sales by ending alcohol sales at a time specified in the application that is some time 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 five conditions to all Premises Licences and Club Premises Certificates where alcohol is sold or supplied on the premises (see Appendix 3).
- (vii) To help reduce the risk of excessive alcohol consumption by providing and promoting reasonably priced soft drinks; and as required as a mandatory condition, to provide free drinking water at all bars (see Appendix 3). The provision of free potable (safe to drink) water is a mandatory condition (see Appendix 3).
- (viii) To help reduce 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 off the Premises, which are located in areas where concerns about street drinkers have been identified by Responsible Authorities or within the area defined in the Cumulative Impact Policy. Such Premises may be required not to stock or sell high strength or types of cheap ciders, beers or lagers with an abv of more than 6% or to sell single unit items, i.e. cans that are split from an original multi pack or other such packaging.
- (ix) To help manage the premises safely by the provision of sufficient SIA registered door staff following a detailed risk assessment taking into account the size and layout of the premises. (see Appendix 2 for further information)

- (x) To determine whether door stewards are to be employed at takeaway premises which provide late night refreshment.
- (xi) To keep appropriate records, an incident log to record incidents that have occurred on the premises or within the vicinity but linked to the premises, telephone calls, complaints and refusals for entry (see Appendix 3 for further information).
- (xii) To help to ensure that the Premises Licence Holder or the Designated Premises Supervisor (DPS) 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. It is recommend that premises keep detailed training records that are available for inspection by Responsible Authorities.
- (xiii) To ensure that all staff in premises selling alcohol after midnight shall be trained and hold, within three months of the commencement of their employment, BIIAB Level 1 Award in Responsible Alcohol Retailing or similar qualification.
- (xiv) To manage appropriately, intoxicated customers, for example by using use a breath box to randomly test and refuse entry to customers where it is believed that they are heavily intoxicated, and to randomly test customers within the premises to ensure that there is no excessive drunkenness.
- (xv) To prepare a Policy to ensure that there is a safe area for leaving drinks when customers leave the premises temporarily, e.g. to smoke.
- (xvi) To ensure that the premises are adequately managed by a suitable person at all times and that whenever the premises are open for the sale of alcohol after midnight, a personal licence holder is on duty.
- (xvii) To ensure that the written authorisations of the DPS to all staff are be kept on the premises.
- (xviii) To implement a recommendation to adopt the Ask for Angela initiative.

Ask for Angela: <http://www.areyouok.co.uk/articles/ask-for-angela/>

- (xix) To implement a recommendation for premises within designated areas of the Special Saturation Policy to meet the standard set by Best Bar None have been adopted.
<https://bbnuk.com/schemes/torquay/>
 - (xx) To write policies to ensure that all off sales are supplied in sealed containers for premises where there is a Designated Public Space Protection Order, and it is believed that the alcohol will be consumed within that designated area. The policy should include the provision of Notices to be clearly displayed where alcohol is sold, advising customers that the area is subject to a Designated Public Space Protection Order.
 - (xxi) To write policies to ensure that where alcohol is supplied buy way of a delivery service, all delivery drivers are trained in Challenge 25, No proof no sale and that deliveries are only to be made to a residential address and received by an over 18.
 - (xxii) To ensure the even distribution of customers within a premises, to reduce crowding and pinch points which can lead to conflict.
- c) Work to reduce the likelihood of any violence, public disorder or Policing problems that may arise if a licence is granted.
 - d) Implementing the outcomes of consultations held by the Applicant, in respect of their application and submitted Operating Schedule, with the Police. 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 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) To 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) To provide adequate facilities for people or performers with disabilities and to ensure their safety.

- (iii) To ensure that the number of people, staff and performers, present in the premises or at the event can be safely evacuated in the case of emergency and that adequate access arrangements exist to permit the attendance of emergency vehicles, if required.
 - (iv) To 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) To maintain controlled entry to the premises or event and establish the maximum number of persons who are occupying the premises or event at any time (see Appendix 2 3 for further information).
 - (vi) To determine what the views are of the Maritime and Coastguard Agency, as the lead Authority with regard to all of the four Licensing Objectives, in the case of an application for a Premises Licence in respect of a passenger vessel.
- b) The Authority will undertake consultations 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 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 the premises pose a risk to the health and safety of 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.
- c) In preparing an Operating Schedule for large scale events, which would require a Premises Licence, the Applicant is expected to consider if appropriate the following guidance and publications:
- (i) Technical Standards for Places of Entertainment 2015 (ABTT, Chartered Institute of Environmental Health ,District Surveyors Association, Institute of Licensing) ISBN 978 1 904031 83 3
 - (ii) The Event Safety Guide (The Purple Guide) www.thepurpleguide.co.uk
 - (iii) Risk Assessment – A Brief guide to controlling risks in the workplace HSE INDG163 (Rev4) <https://www.hse.gov.uk/pubns/indg163.pdf>

- (iv) The Guide to Safety at Sports Grounds, 6th edition (The Stationery Office, ISBN 978-1-9164583-0-7 <https://sgsa.org.uk/greenguide-availablenow/>)
- (v) Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, Published: 2004 Revised 2009 ISBN 978-0-9544892-5-0 <https://outdoorartsuk.org/product/safety-guidance-for-street-arts-carnival-processions-and-large-scale-performance/>
- (vi) Guidance and advice from, Licensing Team, Town Hall, Castle Circus, Torquay TQ1 3DR. Tel: 01803 208025

3.3 THE PREVENTION OF PUBLIC NUISANCE

- a) The adequacy of measures proposed to deal with the potential for Public Nuisance and in particular the steps taken by, or proposals of, the Applicant to:
 - (i) To prevent noise and vibration escaping from the Premises or open air sites, 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) To manage the outside spaces, notably beer gardens, designated smoking areas, car parking areas which are within the direct control of the Premises Licence Holder, to prevent noise from patrons and entertainment creating a Public Nuisance to nearby neighbours.
 - (iii) To prevent disturbance by patrons arriving at or leaving the premises, or in the vicinity of the premises, especially when smoking.
 - (iv) To prevent queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises or otherwise manage the queue to prevent disturbance or obstruction.
 - (v) To consider the cumulative effect from multiple one off events giving rise to Public Nuisance.
 - (vi) To ensure that staff leave the premises quietly.
 - (vii) To evaluate whether taxis, private hire or other vehicles serving the premises are likely to disturb local residents and/or people staying in nearby holiday accommodation.

- (viii) To evaluate 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, the effect this may have on such properties.
 - (ix) To prepare, implement and oversee, as appropriate, policies regarding dispersal of customers, queue management, smoking areas and outside spaces.
 - (x) To take suitable steps to improve the management of the premises, following any previous or current enforcement action taken.
 - (xi) To prevent disturbance from light arising from security devices, floodlighting, advertising lighting or any special effect lighting.
 - (xii) To prevent noxious fumes from causing a nuisance to occupants of nearby residential and commercial premises or land.
 - (xiii) To 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) To implement where appropriate, the outcomes of consultations held between the Applicant and Torbay Council's Licensing & Public Protection Team in respect of the application and submitted Operating Schedule.
- b) The Authority advocates working with businesses, with the shared aim of providing a more business friendly and vibrant economy, however accepts that it equally has a responsibility to its residents. To aid in the process, Appendix 2 gives further advice relating to public nuisance that businesses, new or existing, may wish to consider when making an application or preparing for an event. This should aid both the business and the Authority to ensure there is a common understanding of what is proposed and what the impacts might be. That contained within Appendix 2, should help Applicants' consider the areas they should address and to formulate their own operating schedule tailored to the type, nature and characteristics of the specific premises and its neighbourhood.

3.4 THE PROTECTION OF CHILDREN FROM HARM

- a) To consider that adequate measures are proposed to protect children from harm and in particular the steps taken by, or proposals of the Applicant to protect children:

- (i) In cases where there have been convictions or Fixed Penalty Notices against staff employed at the premises for serving alcohol to minors, or at premises with a reputation for underage drinking.
- (ii) In premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- (iii) In premises where there is a known association with drug taking or dealing.
- (iv) In premises where there is a strong element of gambling on the premises (e.g. jackpot machines).
- (v) In premises where entertainment or services of an adult or sexual nature are provided.
- (vi) In premises 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) In premises 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 manage the premises so as 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 Entertainments" are taking place.
- (vi) Limit access by children to only parts of the premises.
- (vii) Require the presence of an accompanying adult.

- (viii) Fully exclude persons under 18 years from the premises when any or all licensable activities are taking place.
 - (ix) Prevent the service of 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 Authority recommends that the only way to verify a young person's proof of age is with reference to their:
- (i) Passport
 - (ii) Driving licence
 - (iii) Provisional driving licence
 - (iv) Proof of Age Standards Scheme (PASS) card
 - (v) Official Military identity card
- d) The Authority recommends that premises which sell or supply alcohol, adopt the Challenge 25 scheme.
- e) The Authority recommends that premises which 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. The Authority also recommends that records of all staff training are kept for a period of 12 months and made available to a Responsible Authority on reasonable request and that the premises has a written Age Verification Policy, which is also made available to a Responsible Authority on reasonable request. All members of staff must read and sign to confirm their understanding of the Policy, in order to support compliance with the Mandatory Condition (see Appendix 2 for further information). <https://www.proofofage.org.uk/>
- f) The Authority supports the installation of ID Scanners in premises open after midnight that may attract underage drinkers.
- g) 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 Authority will normally 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 to be permitted in the front row of any balcony unless accompanied by an adult.
 - (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.
- h) Clearly stated measures where regulated entertainment is specially presented for under 18's in an existing Licensed Premises, Torbay Council will normally require as a minimum, the conditions found in appendix three (see Appendix 3 for further information).
- i) 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'.
- j) 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 Disclosure and Barring Service.

SECTION 4 – The Licensing Authority’s rationale for issuing Premises Licences is to:

- 4.1 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.
- 4.2 May add stricter conditions, limit hours and in some circumstances refuse types of regulated entertainment at premises in close proximity to residential premises.
- 4.3 Consider refusing or limiting 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 2 for further advice and information)
- 4.4 Will include, when necessary, conditions limiting the access of children to licensed premises solely for the prevention of harm to children.
- 4.5 Will add the mandatory conditions, if the premises licence is to authorise the supply of alcohol. The relevant mandatory conditions can be found in Appendix 3.
- 4.7 Will add the mandatory condition where a premises licence is to authorise the exhibition of films and:
 - 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 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.
- 4.8 Will seek to fulfil the 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.
- 4.9 Where a representation is received, will seek to promptly set before 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. This will enable the Authority to deal with licensing issues speedily, efficiently and in a cost effective manner.

SECTION 5 - The role and influence of Representations:

The Licensing Authority:

- 5.1 Recognises the right of a person or a business to make Representations on an application and will consider such Representations unless it deems them 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 accept a Review application 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 Expects those objecting to applications to help to provide information/evidence to support the assertion that the addition of the premises' licensable activities would be likely to produce the claimed impact on the neighbourhood when considered against the four Licensing Objectives.
- 5.4 Recognises that Elected Councillors are 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.
- 5.5 Recognises that Health is not a licensing objective, but the Authority is aware that there is a significant negative impact on the health of our residents caused by alcohol, reflected in hospital admissions and deaths from alcohol related illnesses, and alcohol induced violence.

Since 2012 the Director of Public Health in Torbay has been a Responsible Authority and is able to make representations on applications and initiate reviews. The Director of Public Health has access to data and evidence that is useful and informative for the, development of policy, and the consideration of applications and the conducting of reviews.

This includes:

- evidence on the impact of alcohol on the physical and mental health of residents, particularly children;
- data on hospital admissions for alcohol related illness and injury;
- data and evidence from local alcohol services, such as outreach and treatment services.

When such evidence and data is presented it will be considered and where links are made to any of the four licensing objectives it will be taken into account by the Licensing Sub Committee in reaching its decision.

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

- 6.1 The Authority has a Licensing Committee comprising of 15 Members of the Authority 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 Authority.
- 6.3 The Authority will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with the Authority's constitution. No Member of the Authority 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 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 To adhere to the principles of The Regulators' Code (April 2014), which include:
 1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow
 2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
 3. Regulators should base their regulatory activities on risk
 4. Regulators should share information about compliance and risk
 5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
 6. Regulators should ensure that their approach to their regulatory activities is transparent
- 6.6 To publicise the Terms of Reference set down for its Licensing Committee.
- 6.7 To recognise enforcement as both 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 Authority 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 To 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 To 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 To comply with the Code of Practice: Age Restricted Products, published by BIS/BRDO 2014, insofar as it relates to the test purchasing of alcohol by Trading Standards Officers and other agencies.
- 6.11 In so far as it is possible, avoid duplication of requirements with other regulatory agencies.
- 6.12 To 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 prevention 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) Take enforcement action against 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) Flexible resourcing of the Authority's CCTV Control Room 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 (2007).
 - g) Promotion of the NiteNet, Pub Watch or StoreNet communication systems and where appropriate impose the participation in the NiteNet scheme upon Applicants' through licence conditions.
 - h) 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 broader requirements of the Licensing Act 2003. This includes complaints regarding noise, public safety or child protection that is within its remit.
- 6.14 Licensing fees are set and are due for payment on the anniversary of the licence and are dependent upon the non-domestic rateable value of the premises. This value, which is also used to calculate business rates, can be found through the Valuation Office Agency (VOA) search engine at <https://www.gov.uk/correct-your-business-rates>. The licence holder is expected to pay the required licence fee when it is due or the law requires the licence to be suspended until such fees are paid.

Carrying on licensable activity while a licence has been suspended is a criminal offence and may result in enforcement action, including prosecution.

The Authority would strongly encourage the premises licence holder to contact the Licensing Team to discuss any problems prior to your annual licence fee being due, to enable the Authority to offer help where they can.

If the fee is disputed prior to the date it is due for payment, the licence will not be suspended pending clarification and resolution. Where an administrative error in relation to the recorded receipt of the annual fee has been made by the the Council and the licence holder has provided proof of payment, the licence will not be suspended.

- 6.15 Although the Authority accepts that the positioning of gaming machines in licensed premises is a matter for the Gambling Act 2005, attention is drawn to the fact that Gaming Machines must be supervised at all times and therefore in site of an area where staff are present.

Contact Details

These details are provided to enable easy contact with the responsible authorities and to supply applications to them as required by the Licensing Act 2003.

Licensing Authority

Licensing and Public Protection Team
Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208025
E-mail: licensing@torbay.gov.uk

Responsible Authorities

Devon and Cornwall Police
Licensing Department
Launceston Police Station
Moorland Road
Launceston
PL15 7HY
Tel: 01566 770500
E-mail: licensing.team@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

Head of Service
Safeguarding & Reviewing Service
C/O Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208559
Email: cpunit@torbay.gov.uk

Director of Public Health
Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 207350
Email: Publichealth@torbay.gov.uk

Plymouth Marine Office
Maritime & Coastguard Agency
Suite 5, Endeavour House
Oceansgate, Vivid Approach
Plymouth
PL1 4RW
Tel: 020 390 85245
E-mail: Plymouth@mcga.gov.uk

Licensing and Public Protection Team (Public Nuisance)
Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208025
E-mail: Licensing@torbay.gov.uk

Food & Safety Team
Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208025
E-mail: Foodsafety@torbay.gov.uk

Operational Support
Health and Safety Executive
1st Floor Cobourg House
32 Mayflower Street
Plymouth
PL1 1QX
Tel: 0300 0031747
E-mail: formsadmin.plymouth@hse.gsi.gov.uk

Planning
Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 207801
E-mail: planning@torbay.gov.uk

Devon, Somerset & Torbay Trading Standards
County Hall
Topsham Road
Exeter
EX2 4QD
Tel: 01392 381381
Email: tradingstandards-mailbox@devon.gov.uk

Home Office (Immigration Enforcement)
Alcohol Licensing Team
Lunar House
40 Wellesley Road
Croydon
CR9 2BY
Email: alcohol@homeoffice.gsi.gov.uk

Appendix 1 – Scheme of Delegation

The full **scheme of delegation** is set out below: -

| Matter to be dealt with | * Full Committee | Sub Committee | Officers |
|--|-------------------------|--------------------------|---------------------------|
| Application for personal licence | | If an objection is made | If no objection made |
| Application for review of 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 |
| Determination of application to disapply requirement for DPS at community premises | | If a Police objection | All other 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 or Environmental Health objection to a temporary event notice. | | All cases | |
| Determination of a Police or Environmental Health objection to a late temporary event notice. | | | All cases |

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

Appendix 2 – Supplementary Information

Prevention of Crime and Disorder

Risk assessment for the provision of Security Industry Authority (SIA) door supervisors

1. The number and times of required staff would be dependent on the location and style of premises/event. Some areas may warrant the employment of SIA registered door supervisors for longer periods of the evening than other areas. This may be particularly true of night time economy areas, which includes the CIA. 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 Authority. However it is recommended that two SIA door supervisors are employed for up to the first 100 customers, and thereafter one additional steward is employed for each additional 100 customers. Consideration also needs to be given to the ratio of male and female door supervisors which are appropriate for particular premises/events.
2. This can, however be altered, subject to the Applicant demonstrating through a suitable and sufficient risk assessment, to the satisfaction of the Responsible Authorities and where necessary, Councillors at a subsequent Licensing Committee hearing, that a different ratio is appropriate. This risk assessment should take into consideration the duties required by the supervisors, the layout of the premises and any key locations/flash points/pinch points within the premises that will require additional supervisors.

Register of SIA door supervisors

1. It is strongly recommended that all premises keep a daily premises register of employed SIA registered door supervisors and this register to be kept for a minimum of 12 months, and be available for inspection by any authorised officer of the Authority or Police. The register shall include full names of the SIA door supervisor working, with their SIA badge numbers, and the date and the times that they commenced and finished their work. This register shall be signed at the end of each shift by the duty manager.

Provision of Incident Log

1. It is strongly recommended that all premises keep 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 involving 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. This log should be completed as soon as reasonably possible following an incident.

Reducing the Strength Campaign

1. Due to crime, disorder and anti-social behaviour issues with known street drinkers within Torbay, the Police have introduced a 'Reducing the Strength Campaign' to limit the availability of high strength lagers, beers and ciders in areas where a problem with street drinkers has been identified, but particularly within the CIA. A number of licensed premises with Torquay Town Centre, and other areas where there are specific concerns regarding street drinkers, who are authorised for the sale of alcohol for consumption off the premises, now have conditions prohibiting them from selling any beer, cider or lager with an abv of 6% or more and prohibiting the sale of alcohol in single units. All applicants applying for the grant of a premises licence authorising the sale of alcohol for consumption off the premises, should consider including the above requirements within their application, particularly where premises are situated within the CIA, and should consult with the Police Licensing Officer for further advice.

Public Safety

Occupancy of Licensed Premises

1. 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 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 **Regulatory Reform (Fire Safety) Order 2005**, and in addition to the information above, should include how these numbers are controlled. The Authority will, when relevant representations 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

General consideration

1. Public nuisance is the most common reason for complaints against existing premises and for representations to be made about new and variation applications. It can include low-level nuisance affecting a few people locally, as well as major disturbance.
2. The potential for nuisance varies according to the nature of the premises. The Authority will interpret nuisance in its widest sense and takes it to include such issues as noise (from patrons and music, both inside and outside the premises), light, litter, human waste (such as vomit and urine), fly-posting and anti-social behaviour.
3. Noise nuisance is the most common problem. It is particularly intrusive at night when ambient noise levels are lower and residents are trying to sleep, and so it is essential that Applicants' can demonstrate how they will effectively manage public nuisance.
4. Where Applicants are completing Operating Schedules, they are expected to have regard to the location of the proposed or actual premises. In particular, consideration should be given to whether proposals may have a disproportionate impact in residential areas or near to sensitive premises such as nursing homes, older people's accommodation, hospitals, hospices, schools, childcare facilities or places of worship.
5. Applicants with access to outdoor spaces, such as beer gardens and designated smoking areas, may be asked provide a written noise management plan if the location of outdoor spaces is adjacent to or in close proximity of residential accommodation or hospitality services, such as hotels and B&Bs.
6. Proximity to residential accommodation is a general consideration with regard to the prevention of public nuisance. The Authority will treat each case on its individual merits, however, stricter conditions will generally be considered on premises licences in areas that have denser levels of residential accommodation or residential accommodation in close proximity to them. This may include, where appropriate, the Authority considering an earlier terminal hour than that proposed by the Applicant.
7. The Authority will presume against the grant of new or variations to Premises Licences 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, and the Applicant cannot demonstrate that they have properly considered the issue of nuisance.

8. To demonstrate proper consideration, Applicants are strongly encouraged to engage the services of and obtain appropriate ~~sought~~ advice from those with the expertise in this field, to explore what if any mitigation measures could be put in place to alleviate the impact of potential nuisance arising from their premises operations.
9. There will be an assumption however, that licensed premises in residential areas, or where there is close proximity to residential properties or hospitality services, 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, where relevant representations have been received.
10. Applicants will be expected to demonstrate in their Operating Schedule, that nuisance arising from noise, light, smoke odour, litter, ASB, human waste, fly posting, highway/footway disruption, can be minimised or fully mitigated against.
11. The content of an Operating Schedule subsequently becomes the basis of conditions on the licence and should be in a form that can be expressed as an enforceable condition. Failure to do this may lead to a representation from the Authority, a Responsible Authority or other person.
12. The following suggestions should be considered but will vary according to the intended operations of each premises. The list is not exhaustive and is intended to act as prompt for Applicants':
 - Is an acoustic report needed if the application involves live or recorded music and later hours.
 - Can details of the location and types of any schemes designed to attenuate noise from the premises be provided.
 - Can details of any measures to minimise the noise caused by patrons outside the premises be provided?
 - How the noise from the activity can 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.
 - The location and availability of any taxi ranks, bus stops, street pastors, railways stations in relation to the premises which are operational at or just after the terminal hour of the licence.
 - Provide details of the location and management of any outdoor areas within the property boundary for use by patrons drinking, eating, smoking, queuing or congregating outside, and the hours of use of such areas.
 - Include details of dispersal policies, and consider the role of door supervision and winding down periods.
 - Will you reduce music sound levels and tempo towards the end of the evening.
 - Will lighting be increased towards the end of the evening.
 - Will there be an area for patrons to use whilst waiting for taxis, such as wind-down/chill out areas.
 - Any use of outside areas such tables and chairs on the highway or smoking areas.
 - If the operation of the venue will attract additional litter such as food cartons or publicity flyers what measures will be put in place to deal with this.
 - Will there be litter patrols for premises operating as takeaways or providing off-sales.
13. If an application is expected to be contentious or noise problems already exist, expert advice should be sought. Applicants are advised to employ a noise consultant before an application is submitted but ideally before signing a lease agreement, if applicable.
14. Sound attenuation works can be very costly and Applicants should factor in the costs into their budget. It can be more expensive and inconvenient if noise breakout is not mitigated at the build stage. The consultant's report should be submitted as part of the application, or a proposed condition that advises that this will be done to the Responsible Authorities' satisfaction before the activity starts.
15. If a Premises Licence is granted for an area that hosts one off events, the Authority and Applicant will have regard to the cumulative impact or effect of

multiple one off events and how noise may affect nearby residents and business.

16. Many premises already have later operating hours and later activities. This can and does cause significant public nuisance to neighbours and create a significant workload for Responsible Authorities.
17. In cases where a premises has benefitted from the deregulation of live and recorded music and the operator creates a nuisance to its neighbours, the Council will seek a review of the premises licence to remove the exemption under the Live Music Act 2012.

Outdoor spaces

18. Beer gardens, roof terraces, pavements and other outdoor areas serving licensed premises are expected to comply with appropriate conditions to the individual premises to ensure minimal disruption to residents in proximity to the premises.
19. Outside spaces are an increasingly popular part of licensed premises, particularly in summer where there is more demand for outside drinking and eating options. There is a need for all outside spaces that are used for smoking, eating and drinking by patrons of licensed premises to be well managed to reduce the potential for nuisance to be caused to nearby residents.
20. Where smoking, eating and drinking takes place outside, the Authority expects applicants to provide comprehensive details in their Operating Schedule on:
 - a. the location of outside areas to be available for use;
 - b. how the outside areas will be managed to prevent: a) noise; b) smell; and c) pavement obstructions, and littering.
 - c. the arrangements for clearing, tables and chairs; and
 - d. preventing nuisance from smoke fumes to residents living in close proximity to smoking areas.
21. Where outside spaces are used for eating, and where children may also be present in the outside space, the Authority expects Applicants to provide details as to how smoking areas will be separated from the general use areas of the outside space.
22. Premises Licence Holders must take into account the needs of patrons with disabilities and comply with the requirements of the Equalities Act 2010.

23. Where the use of outside spaces by the patrons of a licensed premises is unplanned and makes use of the adjoining pavement, there is need for specific consideration. Members of the public can sometimes feel intimidated and crowds of drinkers or smokers spilling out onto the street may cause obstruction. Safety problems can also be caused with drinkers and smokers moving into the road. Wherever possible, all patrons should be contained within areas that are part of licensed premises, such as beer gardens, terraces or, where a pavement café consent has been granted by the Council for tables and chairs, on the public highway, and consideration should be made for local residents with mobility difficulties.

Temporary Event Notices (TENs)

24. The Authority expects that Applicants for TENs, where there is anticipated to be more noise emitted than is usual for the location, to contact the Responsible Authorities well before the event, to enable sufficient time to consider the implications and to be able to work with you, to address any concerns.

25. In the case of events where the event maybe of a significant duration, albeit still under the TEN limit of 499 persons at any one time, the Authority asks Applicants to submit an Event Management Plan 3 months before the intended event date, to minimise the likelihood of objections from Responsible Authorities. The content of the Plan should reflect the event size, and in some cases may only need to be based around a Noise Management Plan.

26. If sufficient information is not provided in support of a TEN, it is quite possible that an objection will be submitted by the Responsible Authorities, or in the case of a Late TEN, simply refused, as the Licensing Act 2003 dictates.

Protection of Children from Harm

Staff Training

1. The Licensing Authority requires as per the mandatory conditions, that an age verification policy is adopted. Premises that sell or supply alcohol will 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 discos in licensed premises

1. Good practice would include the following:

- These events should finish no later than 23.00hrs (11.00pm) after which there will be a 30 minute period before the premises 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 away and/or obscured from view.
- All gaming machines with prizes 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.

Delivery services

1. There has been an increased number of applications for licences relating to delivery services. Although these types of services are not provided for in the Licensing Act 2003, in any way differently from other licensed premises, they do provide their own unique circumstances that need to be addressed. In particular the Authority has concerns with the potential for the following:

- Age verification at both purchase point and delivery point;
- The safety of delivery drivers at point of delivery;
- Safety of the premises from which orders are taken and sent out for delivery; and
- Possible public nuisance caused by delivery drivers collecting deliveries from the licensed premises.

2. The Authority expects licence applications for delivery services that include the delivery of alcohol to take into account issues relating to reducing public nuisance from to delivery vehicles, ensuring the security of premises and delivery drivers, and protecting children by applying rigorous age appropriate checks at purchase point and at point of delivery.

Appendix 3 – Mandatory Conditions

The following conditions apply where the Premises Licence or Club Premises Certificate authorises the sale of alcohol. They are not an exact copy of the legislation but provide a paraphrasing of such (please refer to the Act for exact wording).

All supplies of alcohol

1. 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.

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

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 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 any person 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 (c39) (authority to determine suitability of video works for classification)

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, each such individual must:

- (a) Be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) Be entitled to carry out that activity by virtue of section 4 of the Act.

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 (c12) (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 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, which is licensable conduct for the purposes of that Act,

(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.

Age verification policy

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

3. 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 either—

(a) a holographic mark, or

(b) an ultraviolet feature.

Permitted price

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) “permitted price” is the price found by applying the formula

$$P = D + (D \times V)$$

where:

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence

(i) the holder of the premises licence.

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The following conditions apply where the licence or certificate authorises “on” or “on and off” sales

Irresponsible drinks promotions

1. The responsible person must 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:

(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 in a manner which carries a significant risk of undermining a licensing objective;

(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 in a manner which carries a significant risk of undermining a licensing objective;

(d) 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;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Alcoholic drink measures

1. The responsible person must 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;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Appendix 4

Premises type and potential impacts

| Type of Premise | Typical Style of Operation | Potential Impact |
|------------------------|--|--|
| Nightclubs | Nightclubs expected to be the latest opening premises. Sale of alcohol and multiple entertainment activities take place in these premises. | Disturbance late at night from customers leaving and dispersing Potential for music noise. Issues associated with outside smoking and drinking areas. Drunkenness problems associated with longer opening hours. Alcohol related violence. Sexual violence. Drug misuse. |
| Alcohol Venues Led | Vertical drinking establishments. No significant entertainment. Limited inside seating. Limited consumption of food by customers. | Disturbance late at night from customers leaving and dispersing. Issues associated with outside smoking and drinking areas. Drunkenness problems associated with longer opening hours. Alcohol related violence Drug misuse. |
| Public Houses and Bars | Mix of food and alcohol consumption. Alcohol available without food purchase. Significant seating within premises. Entertainment may be provided. | Disturbance from customers leaving and dispersing. Issues associated without outside smoking and drinking areas. May experience some drunkenness issues. May experience some levels of violence. |
| Restaurants and Cafes | Alcohol only sold to accompany food. Customers seated at tables Table service provided for food and alcohol. Significant food offer. May provided limited entertainment. Premises plan includes dedicated kitchen and food preparation areas. | Minimal disturbance from customers leaving. Limited drunkenness. No alcohol related violence. |
| Off licences | Alcohol only sold for consumption off the premise. | May attract street drinkers and associated anti-social behaviour in some areas. |

| | | |
|------------------------------|---|--|
| | | Applicants are required to demonstrate how their premises will not contribute to street drinking in the area. Premises may attract underage purchasers. |
| Takeaways | Provision of takeaway food and soft drinks. No alcohol but will require a licence for late night refreshment between 2300 and 0500 hrs. | Litter dropped by customers. Cooking smells. May be a place for people to congregate after late night drinking causing noise disturbance. Alcohol related violence and anti-social behaviour. |
| Hotels | Provision of overnight accommodation. Alcohol can be available 24/7 to guests staying on premises. May have a function room available for public hire/functions. | Minimal issues in relation to hotel residents. Potential for drunkenness at public hire/functions. Child protection and safety issues may occur. |
| Other entertainment venues | Alcohol ancillary to other activities such as entertainment – e.g. bowling. | Minimal disturbance from customers leaving. Limited drunkenness. No violence. Potential for music noise. |
| Theatres | Alcohol ancillary to live theatrical performances. | Minimal disturbance from customers leaving. Drunkenness and violence are unlikely. |
| Registered Clubs | Only supply alcohol to members or bona fide guests. No DPS needed. May provide entertainment. Function Room available for commercial hire will require TEN. | Minimal disturbance from members leaving. Limited drunkenness. No violence. Possible noise from entertainment. |
| Festivals and outdoor events | Not alcohol led but food and alcohol will be available on site. Could attract large numbers of attendees. May have to submit Event Management Plan and Risk Assessments to Safety Advisory Group. | Likely disturbance from large numbers attending. Alcohol consumption will exacerbate noise and nuisance issues. Dispersal may be an issue. Drug dealing and drug consumption likely. Drunkenness and violence are possible. Child protection and safety issues may occur. |

Cumulative Impact Policy

Torbay Council is designated as a 'Licensing Authority' ('the Authority'), for the purposes of the Licensing Act 2003. Section 5A of the Licensing Act 2003, delegates to the Authority the power to implement a Cumulative Impact Policy, ('the CIP), where the Authority determines that there is a cumulative impact regarding certain types of premises, and this is resulting in significant crime and disorder, anti-social behaviour and public nuisance issue.

The shaded area on the attached plan is the area that has been identified as the Cumulative Impact Area (CIA) since the Authority's first Statement of Principles, which was published in 2005. This was based upon data provided by the Police and the Authority, as being subject to high levels of alcohol related crime and public nuisance. An evidential review undertaken by the Authority in 2020, found that a CIP should be retained to cover part of the existing area, though not all of it. The Authority considers that the number of premises licences in the CIA described, is such that it is likely that granting further licences would be inconsistent with the Authority's duty to promote the licensing objectives. Findings also demonstrated that the CIP should only apply to 'vertical drinking establishments', 'Off Licences', late night refreshment (takeaway) and premises which are predominantly food based during the day; but become a 'vertical drinking establishment' later in the evening'.

It is the Authority's intention to retain a CIA for the areas hatched on the attached map, based upon the continuing cumulative impact. This includes the whole of Torquay's harbourside and Fleet Street and an area around Castle Circus. It seeks opinions on an area between the two hatched areas, bordered in black, with broken hatched lines, notably Market Street, Abbey Road and the area of Union Street between Temperance Street and Abbey Road.

The Authority proposes to remove the remaining areas from the CIP, as there is no evidence of a cumulative impact to retain these.

The effect of a CIP is to indicate that, where relevant representations have been received and accepted by the Authority, an application for a new premises licence, or the variation of an existing premises licence, would normally be refused, if the premises is within the CIA. This is where it is anticipated that the application will add to the problems of crime and disorder, anti-social behaviour or/and public nuisance in these areas, unless the Applicant can demonstrate within their Operating Schedule, that there will be no negative cumulative impacts on one or more of the Licensing Objectives. It is important to remember if no representations are received for an application within the CIA the application must be granted, as applied for, without the need for a hearing.

It would normally not be justifiable to adopt a CIP just on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. The CIP will however help 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, being under the influence of alcohol who cause anti-social behaviour, nuisance and/or disorder, drinking alcohol on the streets in a particular area.

Where cumulative impact is identified, the problems are not the responsibility of any one premises, but are the result of a number of premises trading in the same, defined area. It is the aim of the CIP to not only reduce crime, disorder, anti-social behaviour and public nuisance within the CIA, but to support and encourage businesses with a focus on providing food, leisure, sports, community and family orientated activities where alcohol is ancillary to the provision of those facilities, which have little or no negative impact on the licensing objectives.

This CIP will be subject to regular review and formal reconsideration every three years, or more frequently, if required. If it is evidenced that the CIP is no longer necessary, because the impact has possibly been remedied by other initiatives or policies, it may be dispensed with. However, where there is an increased cumulative impact, the full extent of the original CIA may re-instated or increased.

Factors considered in reviewing and continuing with the CIP

The Police, 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 and more recently. Recent evidence demonstrates, for parts of the existing area, that these concerns remain.

Torbay Council has considered the analysis of crime data provided by Devon and Cornwall Police, as well as nuisance data provided from its own database. The crime data compared combined crime figures for 2016 and 2017, against combined data for 2018 and 2019, for the area previously defined under the existing CIP. This showed a 22% decline in alcohol related crimes and a 7.7% decline in more serious offences. In contrast, violence and anti-social behaviour incidents were up for the same period by 55.2% and 13.7%, respectively. The main change between the two sets of figures, is the declines in streets with fewer or no licensed premises and therefore formed the decision to remove these from the CIA. Nuisance figures have also seen a decline and again reflects the changing nature of the area.

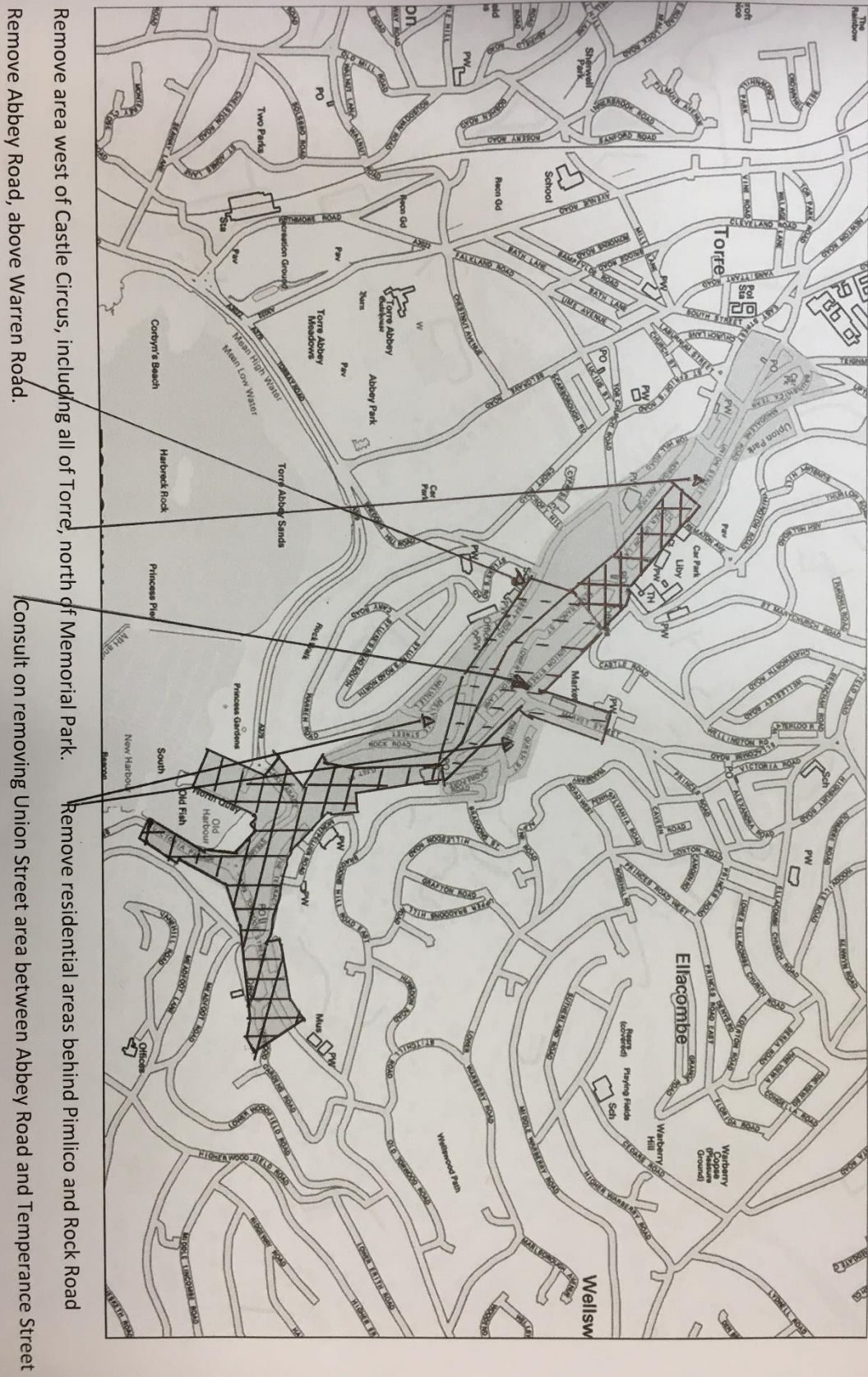
There is a well-established link between alcohol and violence and data from the Assault Related Injuries Database (ARID) – (collected from assault victims attending the local hospitals, accident and emergency department in recent years), where findings have showed that the peak time for assaults in Torbay, being late night/early

morning and alcohol was a factor in most of these assaults. The centre of Torquay was the main hotspot, though as reflected above, there has been a decline in this case, of 23%.

The continuation of a CIA, as designated in the CIP, albeit now smaller in size, does not preclude applications being made for new premises licences or variation to existing premises licences in the town centre for any type of business.

Torquay Town Centre is subject to considerable re-development, both currently and over the coming years. Ongoing development will increase both the urban population of Torquay Town Centre and potentially 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 Torbay Council protect both residents and businesses against the potential growth of anti-social behaviour and crime and disorder in this re-defined area within the CIP, but equally does not impede growth where there is no current evidence of a cumulative impact.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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