

Thursday, 20 August 2020

LICENSING COMMITTEE

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

Friday, 28 August 2020

commencing at **9.30 am**

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

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Members of the Committee

Councillor Ellery (Chairman)

Councillor Amil

Councillor Kennedy

Councillor Atiya-Alla

Councillor Barbara Lewis

Councillor Brown

Councillor Mills

Councillor Mandy Darling

Councillor Pentney

Councillor Dart

Councillor Sykes

Councillor Doggett

Councillor John Thomas

Councillor Foster

Councillor Loxton

Councillor Kavanagh

A prosperous and healthy Torbay

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Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR

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

LICENSING COMMITTEE AGENDA

1. **Apologies**

To receive any apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Declarations of interest**

- (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. **Urgent items**

To consider any other items that the Chairman decides are urgent

4. **Licensing Act 2003 Statement of Licensing Policy 2021 - 2026**

To consider the draft Statement of Licensing Policy 2021-2026 and formulate a response to the consultation.

(Pages 4 - 66)

Instructions for the Press and Public for joining the meeting

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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.

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- 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.

TORBAY COUNCIL

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 Statement of Licensing Policy 2021 – 2026**

Wards Affected: **All**

To: **Licensing Committee** On: **28th August 2020**

Key Decision: **No**

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

Contact Officer: **Gary O'Shea**
Telephone: **01803 207631**
E.mail: **Gary.oshea@torbay.gov.uk**

1. What we are trying to achieve

- 1.1 In accordance with Section 5 of the Licensing Act 2003 (the Act), Torbay Council (the Council) is required every 5 years, to review and republish its Statement of Licensing Policy (the Policy). The current Policy was published on 7th January 2016 and therefore, it must be reviewed and re-published, on or before 6th January 2021.
- 1.2 This report introduces the proposed revision to the Council's draft Policy 2021 to 2026, which went to Cabinet on 11th August 2020, prior to consultation and ultimate adoption by full Council on 3rd December of this year.
- 1.3 Members are also requested to note that the Cumulative Impact Policy (CIP) now stands alone from the Policy, 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 is being consulted alongside the draft Policy.

2. Recommendation(s) for decision

- 2.1 There are no Officer recommendations, as adoption of both the final Policy and the CIP are a function of full Council. The Licensing Committee however, are consultees during this process and are therefore invited to propose amendments as deemed appropriate, which will be collated by officers before being ultimately determined by Cabinet prior to full Council adoption.

3. Key points and reasons for recommendations

- 3.1 Section 5 (1) of the Act states that each Licensing Authority (defined as a District Council of England or Wales) must, in respect of each 5 year period, determine its

Policy with respect to the exercise of its licensing functions and publish a statement of that Policy.

- 3.2 A new section of the Act, Section 5A, introduced by section 141 of the Policing and Crime Act 2017 on 6th April 2018, places Cumulative Impact onto a statutory footing and requires that this is separated from the Policy and reviewed every 3 years.
- 3.3 The current Policy, introduced on 7th January 2016, has been reviewed and updated in line with statutory changes as well as changes to guidance and codes of practice. In accordance with Section 5 (3) of the Act, the Policy must be consulted widely with key consultees as follows:
- a) The chief of police
 - b) The fire and rescue Authority
 - c) Persons considered to be representative of the holders of Premises licences in Torbay
 - d) Persons considered to be representative of the holders of Club Premises Certificates in Torbay
 - e) Persons considered to be representative of the holders of Personal Licences in Torbay
 - f) Such other persons as the licensing authority considers to be representative of businesses and residents in its area
- 3.4 The Council has a statutory responsibility under the Act to complete this process of review of the Policy and to publish the final revision of the Policy along with the CIP on or before 6th January 2021.
- 3.5 The Licensing Committee is a consultee during the adoption process and may propose alterations to the policy or the CIP as they deem appropriate.

For more detailed information on this proposal please refer to Annex 1.

Steve Cox
Environmental Health Manager (Commercial)

Annex 1 – Supporting information to Report

A1. Introduction and history

- A1.1 Section 5 (1) of the Act states that each Licensing Authority (defined as a District council of England or Wales) must, in respect of each 5 year period, determine its Policy with respect to the exercise of its licensing functions and publish a statement of that Policy.
- A1.2 The Policy identifies how the Council will perform its role as Licensing Authority. The last 'Policy' was published to take effect on the 7th January 2016 and therefore expires on 6th January 2021.
- A1.3 A new section of the Act, Section 5A, introduced by section 141 of the Policing and Crime Act 2017 on 6th April 2018, places Cumulative Impact onto a statutory footing and requires that this is separated from the Policy and reviewed every 3 years.
- A1.4 The current Policy has been reviewed and updated in line with statutory changes as well as changes to guidance, codes of practice, good working practices and some of the recommendations from the Evening and Night Time Economy Report, which was produced after a review of the evening and night time economy around Torquay Harbourside, in May 2019, by Night Time Economy Solutions Ltd. The main outcome of that report, favouring a Policy which supports businesses. The draft Policy is attached at **Appendix 1**.
- A1.5 In accordance with Section 5 (3) of the Act, the Policy must be consulted widely with key consultees as identified in 3.3 of the report above.
- A1.6 The Council has a statutory responsibility under the Act to complete this process of review of the Policy and to publish the final revision of the Policy along with the CIP on or before 6th January 2021.
- A1.7 Approval of the finalised Policy following consultation, is a Full Council decision and a report on the draft Policy 2021 – 2026, along with the draft CIP 2021 to 2024 will be presented to Full Council for adoption on 3rd December 2020.

Cumulative Impact Policy (CIP)

- A1.7 The CIP will no longer form part of the Policy. This, since 6th April 2018, is a stand-alone document.
- A1.8 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 adopted such a policy for the area around the harbour side in Torquay and through Fleet Street and parts of Union Street. Details of what has been proposed as the new area, compared to the current area, can be found in a map in the draft CIP in **Appendix 2**.
- A1.9 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 presumption to refuse, with regard to ‘vertical drinking establishments’, ‘Off licence’ and late night refreshment (Takeaways) premises. 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. It should be noted this is a change in emphasis from the current CIP, which covers all premises licence applications in this area.

A1.10 The aim of both CIP changes are to be more business supporting, supporting business investment, which may be stemmed with the knowledge of a CIP being in place. It aims to give a balance between supporting business growth, but tackling the issues that arise from a cumulative impact of businesses and the associated crime and disorder and public nuisance issues that arise.

A1.11 Regardless of whether a CIP is in place, any application that did not receive representation(s) would be granted under the due process of law.

A1.12 Introduction or retention of a CIP is open to legal challenge and must therefore, be fully justified based on levels of crime and disorder, numbers of incidents of anti-social behaviour and a number of other factors. For this reason the suggested review of the current CIP is based on statistical information from the Council, Police and other external sources. A summary of this information is included within the draft CIP, **see Appendix 2**.

A1.13 The proposed draft CIP 2021 to 2024 must be fully consulted and will be consulted alongside the draft Policy.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

The risks are more associated with any failure to review and re-publish the Policy in the prescribed time. The effect being that the Council has no Policy in place, which could prevent lawful discharge of its functions under the Act, which may lead to legal challenge against the Council and financial penalties being incurred.

The risks associated with agreeing the Policy are minimal, as it has been reviewed in line with regulatory requirements, which include full consultation and consideration of any comments that are received.

A3. Options

A3.1 There is no option other than for the Policy and associated CIP to be reviewed and republished by the 6th January 2021, as failure to do so could leave the Council open to risk of legal challenge.

A3.2 Members are at liberty to propose amendments to the draft Policy 2021 to 2026 or the CIP as appropriate, which will form part consultation response that will be presented to cabinet and then to full Council for adoption.

A4. Summary of resource implications

A4.1 There are no significant additional resource implications that will derive from the

Council discharging its statutory obligations, under the Act.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 There are no equalities or environmental sustainability implications. These matters were all considered in the Impact Assessment conducted by Central Government prior to enacting the Primary Legislation.

Any local impacts will be picked up and addressed through consultation.

A5.2 Both Policies aimed to address crime and disorder issues associated with the sale and supply of alcohol, and the draft Policy includes a number of changes to support this.

A6. Consultation and Customer Focus

A6.1 A full consultation takes place with the statutory consultees from 11th August 2020 to 13th October 2020.

A6.2 The consultation will also be published on the Council website during the same time period.

A7. Are there any implications for other Business Units?

A7.1 There are no significant implications for other business units relating to this report.

Appendices

Appendix 1 Draft Statement of Licensing Policy 2021 to 2026

Appendix 2 Draft Cumulative Impact Policy 2021 to 2024

Documents available in members' rooms: None

Background Papers:

The following resources and documents were used to compile this report:

- 1 Licensing Act 2003.
- 2 Secretary of State Guidance as issued under Section 182 of the Licensing Act 2003
- 3 The Statement of Licensing Policy 2016 to 2021

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
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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. Dispersion 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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