

Wednesday, 16 July 2025

STATUTORY LICENSING COMMITTEE

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

Thursday, 24 July 2025

commencing at **9.30 am**

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Spacagna (Chairman)

Councillor Amil

Councillor Brook

Councillor Douglas-Dunbar (Vice-Chair)

Councillor Foster

Councillor Johns

Councillor Chris Lewis

Councillor Pentney

Councillor Stevens

Councillor Virdee

A Healthy, Happy and Prosperous Torbay

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

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

STATUTORY LICENSING COMMITTEE AGENDA

1. **Apologies**
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 3 - 4)
To confirm as a correct record the Minutes of the meeting of this Committee held on 24 October 2024.
3. **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.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent
5. **Licensing Act 2003 - Draft Licensing Statement of Principles 2026 - 2031** (Pages 5 - 88)
To consider a report on the draft Licensing Act Statement of Policy and provide any feedback during the consultation period.
6. **Mediation Report - Information regarding delegated decisions for the grant/variation of Premises Licences** (Pages 89 - 90)
To note a report that provides information regarding delegated decisions for the grant/variation of Premises Licences.

Minutes of the Statutory Licensing Committee

24 October 2024

-: Present :-

Councillor Barbara Lewis (Chairwoman)

Councillors Amil, Douglas-Dunbar, Johns, Pentney, Virdee, Chris Lewis and Tolchard

5. Apologies

Apologies for absence were received from Councillors Brook and Bryant.

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillor Chris Lewis instead of Councillor Hutchings and Councillor Tolchard instead of Councillor Foster.

6. Minutes

The Minutes of the meeting of the Statutory Licensing Committee held on 14 September 2023 were confirmed as a correct record and signed by the Chairwoman.

7. Gambling Act 2005 Statement of Licensing Policy 2025 - 2028 Consultation

The Committee considered a report that enables Members to make representations relating to the draft Gambling Act 2005 Statement of Licensing Policy 2025 – 2028.

The Regulatory Services Manager informed Members that the Gambling Act 2005 requires that Torbay Council must review and publish a Statement of Principles every three years outlining the procedures it intends to follow in discharging its statutory responsibilities under the Act.

The Regulatory Services Manager advised Members that the policy had been reviewed in-line with Gambling Commission Guidance and minor amendments had been made. Members were advised that the Licensing Authority consulted widely on this Draft Statement of Principles 2025 – 2028 and the consultation period took place from 12 July 2024 to 23 August 2024.

Resolved:

In light of the minor amendments made, the Committee noted the report and Members agreed to recommend to Cabinet for adoption at full Council in December 2024.

Chairman/woman

Meeting: Statutory Licensing Committee

Date: 24 July 2025

Wards affected: All

Report Title: Licensing Act 2003 – Draft Licensing Statement of Principles 2026 – 2031

When does the decision need to be implemented? Response required during the consultation period

Director/Divisional Director Contact Details: Tara Harris, Assistant Director, Community and Customer Services

1. Purpose of Report

- 1.1 The Licensing Act 2003 requires Torbay Council, under its role as Licensing Authority, to review and publish a 'Statement of Licensing Policy' (the Licensing Policy), every five years. The Statement of Principles outlines how the Council will administer applications and regulate licensable activities. It also specifies under what circumstances applications may be successful and the measures necessary to promote the licensing objectives.
- 1.2 On 14 July 2025, the Cabinet launched the Licensing Policy for public consultation. A meeting of the Statutory Licensing Committee has been convened in order for the Members of the Licensing Committee to provide any feedback they may have on the Licensing Policy.

2. Reason for Proposal and its benefits

- 2.1 In accordance with section 5 of the Licensing Act 2003, the Council must prepare and publish a statement of its Licensing Policy at least every five years.

The Authority has reviewed its current Policy and has prepared a draft 'Statement of Licensing Policy 2026-31' which will be formally published on the 18 July 2025 inviting public consultation and comment for a period of six weeks. This is attached as **Appendix 1** to this report.

- 2.2 The Statement ensures clarity as to how the Council will fulfil its role as the Licensing Authority and provides guidance to businesses and the public. This Statement assists businesses to function safely and within the law.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Statutory Licensing Committee consider the draft Licensing Act Statement of Policy and provide any feedback during the consultation period.

Appendices

Appendix 1: Draft Licensing Act Statement of Policy 2026 to 2031

Background Documents

1. Current Licensing Statement of Policy (Licensing Policy) 2021 – 2026 - [Licensing Statement of Principles - Torbay Council](#)
2. Licensing Act 2003 - [Licensing Act 2003](#)
3. Revised Guidance issued under section 182 of the Licensing Act 2003 - [Revised guidance issued under section 182 of the Licensing Act 2003 \(February 2025\) \(accessible version\) - GOV.UK](#)

Supporting Information

1. Introduction

- 1.1 Torbay Council has a statutory responsibility under Section 5 of the Licensing Act 2003 (the Act) to review, consult and to re-publish its Licensing Statement of Policy (Licensing Policy). The Policy establishes the licensing controls placed on the sale of alcohol, provision of entertainment, and the operation of premises for late night refreshment.
- 1.2 Alcohol is an important component of Torbay's economy, particularly within the evening and night-time economy (ENTE). However, the use of alcohol can have a negative impact on individuals, families, local communities and Torbay as a whole and therefore needs to be carefully managed.
- 1.3 The process of review, consultation, and publication must be completed on or before 7 January 2026.
- 1.4 The Statement of Policy has been reviewed alongside the latest version of the section 182 statutory guidance.

The following minor updates have been made:

- Update or removal of any out-of-date website links; updates to new legislation and Responsible Authority contact details.
- Clarification that the Home Office Immigration Enforcement are not a responsible authority for Club Premises Certificates (section 6.11 of the statutory guidance, Appendix 1 of the Policy).
- Reference to the SWaN Charter and Project Nighteye
- Reference to the 'Agent of change principle' whereby existing businesses and facilities should not have unreasonable restrictions place on them as a result of development permitted after they were established (Section 14.66 of the statutory guidance, page 43 of the Policy).
- Removal of Mandatory Conditions from the Policy as these are required by the legislation.
- Expansion on safeguarding and an additional section in Appendix 5 with information for licence holders and their employees to help them report matters of concern to the relevant authorities.
- Expansion on illegal drugs and drink and drug spiking (page 16).
- Expansion on reducing the strength conditions (page 56).
- Expansion on the section regarding occupancy of licensed premises (page 57)

- An additional Public Nuisance condition between the hours of 23:00 hours and 08:00 hours to expect total sound containment within the licensed premises to ensure a noise nuisance is not caused to local residents (page 59).
- Expansion on the section regarding online alcohol sales and delivery services. This includes amendments to reflect changes in the s.182 guidance for premises providing alcohol delivery services. Persons who run premises providing alcohol delivery services should notify the licensing authority that they are operating such a service in their operating schedule. This ensures that the Licensing Authority can properly consider what conditions are appropriate. Premises with an existing premises licence which now choose to operate such a service in addition to their existing licensable activities, will need to contact the Licensing Authority so it can advise on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required (page 64 of the Policy).

More detailed sections have been provided in some parts of the Policy namely regarding:

- An additional section on 'integrating strategies' has been included in the introduction. This includes Public Health, Community Alcohol Partnership, Event Management and Safety Advisory Groups, Cumulative Impact Assessment (including updating all references to a Special Saturation Policy to CIAs) and Public Spaces Protection Orders (page 6-9).
- New applications and full variations (page 19 of Policy)
- Minor Variations (page 20 of Policy)
- Review of premises licence (page 21 of Policy)
- Relevant, Vexatious and frivolous representations (page 23)
- Use of Petitions (page 23)
- TENs (page 23)
- Provisional Statements (page 24)
- Fire Safety (page 33)
- The Terrorism (Protection of Premises) Act 2025 (Martyn's Law) – reference to the new Terrorism (Protection of Premises) Act 2025 which aims to keep people safe by enhancing our national security and reducing the risk to the public from terrorism at public venues. It will place a requirement on those responsible for certain locations to consider the threat from terrorism and implement appropriate and proportionate mitigation measures (page 33)
- Outdoor Areas and Smoking Areas (page 36)
- Night cafes and Takeaway Premises/Restaurants with delivery services (page 38)
- Fly posting and promotional material (page 39)

2. Options under consideration

- 2.1 There are no other options available, as the review of the Statement of Policy is a statutory requirement under the Licensing Act 2003.

3. Financial Opportunities and Implications

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

4. Legal Implications

- 4.1 None

5. Engagement and Consultation

- 5.1 The public consultation on the Policy will be open for six weeks. The consultation process will provide all stakeholders, interested parties and the public in general the opportunity to have their say on the content of the draft. Persons consulted include:

- The Chief Officer of Devon and Cornwall Police
- The Chief Officer of Devon and Somerset Fire and Rescue Service
- The Director of Public Health
- Residents and businesses of Torbay
- Bodies representing businesses
- Holders of premises licences and club premises certificates
- Bodies representing existing registered clubs
- Bodies representing holders of existing premises licences and personal licences
- Torbay and South Devon NHS Foundation Trust
- Torbay Council: Children's Services
- Torbay Council: Planning, Environmental Health and Highways Authorities
- The Torbay Safer Communities Partnership
- The Maritime and Coastguard Agency
- Faith groups via Torbay Interfaith Forum and the Street Pastors
- Torbay Development Agency
- English Riviera BID Company
- Tor Bay Harbour Authority
- Community Alcohol Partnership
- Best Bar None Torbay
- Domestic Abuse and Sexual Violence Partners

6. Procurement Implications

- 6.1 This proposal does not require the purchase or hire of goods or services.

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 There is no aspect of this Statement of Licensing Policy that will impact negatively or positively on climate.

8. Associated Risks

- 8.1 There are no risks with agreeing the consultation process which is necessary to comply with the legislative requirements.

9. Equality Impact Assessment

The Statement of Policy is a review of an existing Policy and therefore there is no change to impact of specific groups. Where there exists any potential for impact, this would generally be through the application process where there is the safeguard that any responsible authority or 'other person' may make representation. The four licensing objectives are also designed to ensure consideration of any impacts.

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age Age 11	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	<p>Some of the proposals may impact on licensing hours, particularly those used by this age group.</p> <p>The policy is designed to minimise the negative impact of the legal operation of the licensable activities.</p> <p>A section on Safeguarding has been added and the Policy recommends businesses adopted the 'Challenge 25' scheme to ensure protection to children and young people.</p> <p>The promotion of a safe night-time offer will help to protect all users from alcohol related crime and disorder and encourage a wider age range to enjoy a night out in a safe and responsible way.</p>	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers. Policy will be formally reviewed every 5 years or sooner if required.

Carers	<p>At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.</p>	<p>There is no requirement for the applicant to pass on any details about whether they are a carer. The council hold no information of any applicants from this group. The policy will grant licences that conform to the requirements of this policy.</p> <p>Licensed premises must comply with the Equality Act 2010.</p> <p>Premises should seek to promote accessibility and inclusion. The prevention of crime is one of the Licensing Objectives. Licensed premises should make reasonable adjustments.</p>	<p>Routine assessment of applications and monitoring to ensure compliance with regulations.</p>	<p>Licensing Officers and other authorised officers.</p>
Disability	<p>In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.</p>	<p>There is no requirement for the applicant to pass on any details of medical capacity.</p> <p>There are no equality restrictions of who can enter licensed premises. The council hold no information of any applicants from this group.</p> <p>The policy will grant a premises licence applicant that conforms to the requirements of this policy without consideration of disability.</p> <p>Licensed premises must comply with the Equality Act 2010.</p> <p>Premises should seek to promote accessibility and inclusion. The prevention of crime is one of the</p>	<p>Routine assessment of applications and monitoring to ensure compliance with regulations.</p>	<p>Licensing Officers and other authorised officers.</p>

		Licensing Objectives. Licensed premises should make reasonable adjustments.		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.	<p>There are no gender restrictions of who can hold a premises licence or can enter licensed premises providing that they can satisfy any age-restricted requirements. The council hold no information of any applicants from this group.</p> <p>The policy will grant a premises licence applicant that conforms to the requirements of this policy without consideration of gender reassignment.</p> <p>.</p> <p>Licensed premises must comply with the Equality Act 2010. The Policy seeks to broaden the appeal of the night-time economy for all and to promote a safe and welcoming offer.</p>	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	There are no equality restrictions of who can apply or hold a licence. The council hold no information of any applicants are from this group. The policy will grant licences to any licenced operators that conform to the requirements of this policy	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.

		without consideration of marriage or civil partnership.		
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the Southwest (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.	<p>There are no equality restrictions of who can apply or hold a licence.</p> <p>The council hold no information of any applicants are from this group. The policy will grant licences to any licenced operators that conform to the requirements of this policy without consideration of pregnancy and maternity.</p>	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.
Race	In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the Southwest and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.	<p>There are no race restrictions to who can hold a premises licence or can enter licensed premises providing that they can satisfy any age-restricted requirements.</p> <p>The council hold no information of any applicants from this group. The policy will grant a premise licence to any applicant that conforms to the requirements of this policy without consideration of race.</p>	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.
Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	There is no requirement for the applicant to pass on any details concerning faith, religion or belief. The council hold no information of any applicants from this	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.

		group The policy will grant a premises licence to any applicant who conforms with the requirements of the legislation and this policy without consideration of faith, religion, or belief.		
Sex	51.3% of Torbay's population are female and 48.7% are male	<p>There are no restrictions to who can hold a premises licence or can enter licensed premises providing that they can satisfy any age-restricted requirements.</p> <p>The policy will grant a premises licence to any applicant who conforms with the requirements of the legislation and this policy without consideration of a person's sex.</p>	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	<p>There are no restrictions to who can hold a premises licence or can enter licensed premises providing that they can satisfy any age-restricted requirements.</p> <p>The policy will grant a licence to any applicant who conform with the legislation and requirements of this policy without consideration of sexual orientation.</p>	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.
Veterans	In 2021, 3.8% of residents in England reported that they	There are no restrictions to who can hold a premises licence or can enter licensed	Routine assessment of applications and	Licensing Officers and

	<p>had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously serviced in the UK armed forces.</p>	<p>premises providing that they can satisfy any minimum age-restricted requirements.</p> <p>The policy will grant a licence to any applicant who conforms with the legislation and requirements of this policy.</p>	<p>monitoring to ensure compliance with regulations.</p>	<p>other authorised officers.</p>
Additional considerations				
<p>Socio-economic impacts (Including impacts on child poverty and deprivation)</p>	<p>The proposals are designed to improve public safety and protect local communities from noise and anti-social behaviour.</p> <p>Some aspects are designed to assist in the reduction of alcohol harm.</p> <p>The proposals will assist in reducing health inequalities.</p>	<p>The policy seeks to allow licensed premises the legitimate opportunity to undertake licensable activities providing that they are lawful and within their licensing requirements.</p> <p>Licensed premises must also have procedures in place to protect vulnerable persons.</p> <p>There are no other equality restrictions other than to protect children and young persons from age restricted products/activities.</p>	<p>The Local Area Profile will be reviewed regularly with the Director of Public Health.</p>	<p>Licensing Officers and other authorised officers.</p>
<p>Public Health impacts (Including impacts on the general health of the population of Torbay)</p>	<p>The proposals are designed to improve public safety and protect local communities from noise and anti-social behaviour.</p>	<p>The policy seeks to allow licensed premises the legitimate opportunity to undertake licensable activities. There are no equality restrictions of who can be a premises licence holder. Local</p>	<p>The Local Area Profile will be reviewed regularly with the Director of Public Health.</p>	<p>Licensing Officers and other authorised officers.</p>

	<p>Some aspects are designed to assist in the reduction of alcohol harm.</p> <p>The proposals will assist in reducing health inequalities.</p>	communities have an opportunity to visit these premises if they wish.		
Human Rights impacts	There are no human rights impact with regards to the Licensing Act. The Council ensures it complies with the legislative requirements.	The policy seeks to promote flexibility and fairness to all premises licence holders by balancing the lawful right of charities to collect without undue inconvenience to the general public.	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.
Child Friendly	Torbay Council is a Child Friendly Council, and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	The policy will grant licences where the applicant complies with the legislation and conforms to the requirements of this policy.	Routine assessment of applications and monitoring to ensure compliance with regulations.	Licensing Officers and other authorised officers.

10. Cumulative Council Impact

None

11. Cumulative Community Impacts

None

Torbay Council's Statement of Principles 2026-2031

Licensing Act 2003

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The ‘Licensing Statement of Principles 2026-2031 was ratified and adopted by Full Council on XXXXXXXXXX

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

Torbay Council's Statement of Principles 2026-2031

Introduction: Local Summary

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 2026 to 6 January 2031.

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 139,000. Tourism in Torbay accounts for 920,000 staying visitors plus 3 million day visitors, generating a direct and indirect spend of £412 million per annum. This represents around one third of the areas wealth and also one third of its jobs.

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.

MAP of TORBAY



Integrating Strategies

Public Health

Torbay Council's Public Health Team are responsible for a wide range of health issues including alcohol and drug misuse services and other lifestyle campaigns to promote better health for all.

Alcohol holds a prominent place in our communities, and where enjoyed safely, it can have a positive role in family and social life, as well as being an important factor in our economy. However, this should not disguise the fact that alcohol can also have a profound negative impact on our communities, whether through visible harms such as alcohol fuelled crime, disorder and street drinking; or in relation to more hidden harms such as alcohol dependence, domestic abuse and child safeguarding issues.

The Public Health Team is a Responsible Authority under the Licensing Act 2003 and works with other organisations that provide the health services.

Torbay's Community Safety Partnership, '[Safer Torbay](#)' brings the Council together with four other statutory agencies and a number of public sector, voluntary, community and private organisations to tackle issues locally.

Safer Torbay's key areas of work include:

- Crime and Anti-social Behaviour
- Problematic Substance Misuse
- Reducing re-offending
- Domestic Abuse
- Sexual Violence
- Stalking
- Exploitation

The Licensing Authority will work with Safer Torbay on these key areas.

Community Alcohol Partnership

The Licensing Authority supports the alcohol industry in demonstrating their commitment to promoting responsible drinking by seeking to ensure that the sector doesn't entice young people to drink.

A Community Alcohol Partnership (CAP) is a Community Interest Company (CIC) which brings together and supports local partnerships of Councils, Police, retailers, schools, health providers and community groups to reduce alcohol harm among young people, improve their health and wellbeing and enhance their communities.

The Licensing Authority, as part of its membership of the Paignton CAP, actively supports the important work in preventing underage drinking and alcohol harm to young people. Further information on CAP initiatives can be found at www.communityalcoholpartnerships.co.uk

Event Management and Safety Advisory Groups

Torbay Council has a Public Safety Advisory Group (PSAG) and a Sports Ground Safety Advisory Group (SAG) comprising of representatives from the emergency services and other statutory agencies to advise and coordinate the planning for public events in Torbay.

Determining whether or not to refer an event to a PSAG or SAG requires a risk based approach and the decision will be influenced by considering a combination of:

- Numbers of people attending (at any one time)
- Levels of risk with the event
- Previous history of similar events
- Events of an unusual nature
- Other events planned at the same time that may increase the impact and risk

Organisers of events meeting the above criteria, whether or not a premise licence or temporary event notice is needed, are strongly advised to contact the PSAG or SAG in order to receive sufficient advice to ensure the safe running of an event.

Where a premises licence is needed for an event, the Licensing Authority would expect to see a condition that the PSAG or SAG will be notified at least 3 months in advance. The Licensing Authority will also expect confirmation of approval for the event, one month before it takes place. This is particularly important where the applicant requires a licence that is not limited to a once only event.

Whilst a premises licence could be granted after 28 days of the application being served, applicants should be aware that if representations are received and a hearing is required, a decision may take two months. Applicants should consider this in their planning. Large capacity events will require greater notice period for PSAG and SAG to consider the event management plan. This allows the Police to ensure sufficient cover and the public transport provision to be changed to accommodate the event. At least six months notice will be expected for events of 5000 people or more.

Further advice and guidance for event organisers can be found in the [Purple Guide](#).

Cumulative Impact Assessment

In preparing this Policy, the Licensing Authority has taken into account its published Cumulative Impact Assessment (CIA) which was reviewed by the Licensing Committee on *(date to be confirmed as currently under review)*.

In summary, two areas of Torquay have been identified as being subject to high levels of alcohol related crime or public nuisance. Those areas are shown in the CIA which can be found at www.torbay.gov.uk/licensing-statement-of-principles

The effect of this assessment is to create a rebuttable presumption that applications for a new premises licence, club premises certificate or the variation of an existing licence or certificate in those areas will normally be refused where:

- Representations have been received and it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in these areas, and
- The applicant has been unable to demonstrate that, within their operating schedule, there will be no significant negative cumulative impact on one or more of the licensing objectives.

The CIA does not change how licensing decisions are made but is a strong statement of intent about the Licensing Authority's approach to relevant applications made in these areas. However, the Licensing Authority will always consider each application on its merits.

The CIA is reviewed every three years. Therefore anyone viewing this policy is directed to the link above to find the most up to date position with regards to the CIA.

Public Spaces Protection Orders

The Council wishes to discourage drunkenness and to encourage the provision of more seating in premises which serve alcohol for people to sit and enjoy a drink and order food by table service, in place of open bar space which caters for high volume vertical drinking. The effective dispersal of customers both from premises and from the Cumulative Impact Areas is regarded by the Licensing Authority as a key principle of its policy to promote the licensing objectives of the prevention of crime and disorder, public nuisance, and public safety.

[Public Spaces Protection Orders](#) (PSPOs) were introduced in Torbay to encourage responsible drinking and to assist in reducing anti-social behaviour associated with street drinking. It provides the Police with the power to require alcohol to be surrendered.

The Licensing Authority recognises the effectiveness of this tool in preventing crime and disorder and tackling anti-social behaviour. Premises are expected to have measures in place to prevent their customers contributing to anti-social behaviour.

PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable. Before making a PSPO, the Council must consult with the local Police. Where a Local Authority occupies or manages premises, or where premises are managed on its behalf and it licences that place for alcohol sales, the PSPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the PSPO at all other times. This allows Local Authorities to promote community events while still using a PSPO to tackle the problems of anti-social drinking.

Purpose and Scope of the Statement of Principles (Policy)

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 hours.

This sixth 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
- r) Community Alcohol Partnership
- s) Best Bar None Torbay

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 the vibrancy of Torbay. 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 Torbay 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 Torbay are protected through our robust licensing procedures. We believe these aims are achievable if all parties concerned work together.
- 1.7 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.
- 1.8 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.
- 1.9 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 of the Licensing Objectives. Conditions imposed will be reasonable and proportionate.
- 1.10 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.

- 1.11 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.
- 1.12 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..
- 1.13 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. Safeguarding is everyone's responsibility. Applicants, licensees, employees in licensed premises, Responsible Authorities, elected members, other local businesses and communities, everyone who has dealings with children, young people and adults with care and support needs – we all have a duty to report matters to concern to the relevant authorities. 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. In addition, the wider safeguarding context must be considered when prospective and existing licence holders submit applications, during the assessment and determination process and ongoing use of the licence/notice. Appendix 5 provides information for licence holders and their employees to help them report to the relevant authorities matters of concern that could relate to the safety of children and vulnerable persons, particularly if it relates to child exploitation and trafficking.
- 1.14 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, local licensing forums, Pub watch, SWaN Charter, UKPAC and StoreNet and values the contribution such schemes make to the fulfilment of the Licensing Objectives.

- 1.15 The Authority considers that its decisions can be a key factor in the control of anti-social behaviour. 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 behaviour 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.

- 1.16 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.

- 1.17 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.

- 1.18 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.

- 1.19 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 and officers to work together to achieve a common agreement prior to determination. If there is variance between the hours given under a licence and those permitted by the planning permission, the earlier hours will apply.

1.20 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.

1.21 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.

1.22 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.

1.23 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, which includes their protection from moral, psychological and physical harm.

1.24 The use of illegal drugs, particularly those which are commonly referred to as a 'recreational drugs' and illegal psychoactive substances can be harmful and in some cases contribute to fatalities. Factors that have contributed to deaths from drugs include lack of drinking water, excessive drinking water, an overly

hot environment with inadequate ventilation, or a lack of adequate information about drugs.

The Licensing Authority recognises that drug use in a club/pub environment is not something that is relevant in all licensed premises. However it is recognised that special conditions will need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them i.e. zero tolerance drug policies including the appropriate use of searching and amnesty boxes.

It is the responsibility of premises to help keep their customers safe from drink and drug spiking, for example by the provision of signage and information to alert customers to the risk of drink spiking, as well as medical and reporting actions needed as soon as an incident is suspected.

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.

1.25 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'](#).

1.26 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.

1.27 The Authority will review this Policy, at least once in every five years. The Cumulative Impact Assessment 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 Process 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 3 for further information on what should be considered in an 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 a pavement licence under the Business and Planning Act 2020 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. 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. Further information and guidance can be found at www.torbay.gov.uk/pavement-licence

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 2 December 2010. Under the Act as amended, premises offering lap dancing, 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 17 March 2011. The Policy can be found at www.torbay.gov.uk/sex-establishments.

2.7 Individuals who are applying for a personal licence must 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.

New applications and full variations

2.8 All licensing applications for the grant or variation of a premises licence must be served on the Licensing Authority and on the Responsible Authorities within Torbay. The contact details (current at the time of writing this Policy) for the Responsible Authorities are detailed in Appendix 1. However, applicants are advised to also check the Home Office S.182 Guidance and the Act to ensure they have complied with the requirements under the Act.

2.9 Where an application for the grant of a premises licence or club premises certificate, variation of the same, or a provisional statement, or any part of it, is submitted in writing, it is the responsibility of the applicant to ensure that a copy of the application has been sent to all Responsible Authorities as stipulated in the Act. Where such applications have been submitted electronically, copies of the application will be forwarded to the Responsible Authorities by the Licensing Authority.

2.10 Full variations should not be used to ‘vary substantially the premises to which the licence relates’.

Minor variations

2.11 An application can be made for a minor variation to premises licences and club premises certificates where the change is considered to have ‘no adverse impact’ on the promotion of any of the four Licensing Objectives.

2.12 Minor variations can be used to:

- make minor changes to the structure or layout of a premises
- make small adjustments to the licensing hours
- remove out of date, irrelevant or unenforceable conditions
- add or remove certain licensable activities
- add volunteered conditions to a premises licence or club premises certificate
- 2.13 Examples of where the minor variation process **cannot** be used include:
 - extending the period for which the licence or certificate has effect
- specifying, in a premises licence, an individual as the premises supervisor
- adding the sale by retail or supply of alcohol as an activity authorised by a licence or certificate
- authorising the sale by retail or supply of alcohol at any time between 23:00 and 07:00 hours

- authorising an increase in the amount of time on any day during which alcohol may be sold by retail or supplied
 - varying a licence for a community premises so as to apply the condition that every supply of alcohol under that licence must be made or authorised by the management committee
 - substantially varying the premises to which the licence or club premises certificate relates
- 2.13 Under a minor variation the applicant must send the application to the Licensing Authority and must advertise the application on a white notice for a period of ten working days, at the premises, beginning with the day after the application was given to the Authority. The applicant is not required to advertise the variation in a local newspaper or send a copy to Responsible Authorities.
- 2.14 On receipt of a minor variation application, the Licensing Authority will consider the application and consult whichever of the Responsible Authorities it considers appropriate. In deciding on the application, the Licensing Authority will consider any relevant representations received within the statutory time limit (ten working days from the day after the application was received by the Licensing Authority). The Licensing Authority will either grant the application or refuse it where it considers that the proposed application could impact adversely on any of the four licensing objectives.
- 2.15 There is no right to a hearing under the minor variation process.
- 2.16 If the Licensing Authority fails to determine the application within 15 working days, the application will be treated as being refused and the fee returned. However, in such cases the Licensing Authority and applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application thus avoiding the need for a new application to be submitted.

Review of premises licence

- 2.17 A Responsible Authority or other persons may at any time call for a review of a premises licence or club premises certificate, where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence or club premises certificate. Examples may be where there has been a breach of licensing conditions, failed test purchases or where activities undermine the licensing objectives. The conduct of review hearings is set out in the relevant statutory instruments.

- 2.18 Where the request for review originates from other persons, the Licensing Authority may reject the application if it is considered frivolous, vexatious or repetitious.
- 2.19 In all cases, an application for review must relate to a particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to one or more of the four licensing objectives.
- 2.20 Where a review is brought, the Licensing Authority may take any of the following actions:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), e.g. by reducing the hours of opening or by requiring door supervisors at particular times
 - exclude a licensable activity from the scope of the licence, e.g. to exclude the performance of live music or playing of recorded music
 - remove the designated premises supervisor, e.g. because they consider that the problems are the result of poor management
 - suspend the licence for a period not exceeding three months
 - revoke the licence
 - take no action
- 2.21 In deciding which of these powers to invoke, this Licensing Authority will seek to establish the cause of the concerns which the application and any relevant representations identify. The remedial action taken should be directed at these causes and should always be an appropriate and proportionate response. For example, the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 2.22 Equally, it may be that poor management is a direct reflection of poor company practice or policy and the removal of the designated premises supervisor may be an inadequate response to the problems presented.
- 2.23 The Licensing Authority will consider each case on its own merits having regard to the relevant law and guidance.
- 2.24 Where reviews are sought by residents or Responsible Authorities in relation to public nuisance alleged to arise from a licensed premises, the nature of the premises, its track record and length of time it has been providing the activities complained of will all be taken into account in determining the application.

Relevant, vexatious and frivolous representations

- 2.25 Officer decisions as to whether representations are relevant, frivolous or vexatious will be made objectively having regard to all the available facts and not on the basis of any political judgment:

- a frivolous representation can be categorised by a lack of seriousness or concerning very minor issues which would not warrant any steps being taken
- a vexatious representation arises where it is intended to cause aggravation or annoyance to another person or business without any justification (e.g. disputes between rival businesses).
- a representation would only be relevant if it relates to the likely effect on at least one of the licensing objectives, relates to the application under consideration and is received within the relevant timescales.

- 2.26 Where representations are rejected, the Responsible Authority or other persons making that representation will be given a written reason as to why this is the case. Anyone who wishes the decision to be reconsidered should lodge a complaint at www.torbay.gov.uk/complaints.
- 2.27 In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation.

Use of petitions

- 2.28 Standard letters of support or objection, and petitions can be submitted in response to an application or review.
- 2.29 Standard letters, with only the signature and address of the sender, will be considered as a petition as they contain no additional individual comment. Standard letters that have additional detail regarding the representation will be considered as a separate representation and will be published separately as part of any Committee report.
- 2.30 Petitions will be published as part of the Committee report, and reference will be made to the number of names supporting the petition. The Council will only correspond with the lead petitioner and will invite that person to the hearing but not all of the signatories on the petition.

Temporary Event Notices (TEN's)

- 2.31 A TEN is a notification given by an individual to the Licensing Authority where it is proposed to use premises for one or more licensable activities during a period not exceeding 168 hours and can be used to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time.
- 2.32 A TEN is typically used to:
- authorise a licensable activity at a premises not currently licensed e.g. selling alcohol at a fete
 - temporarily extend the hours for providing a licensed activity at an existing licensed premises for a specific event
 - provide for licensable activities not authorised by the existing licence.
- 2.33 Where a TEN or any part of it, is submitted in writing, it is the responsibility of the applicant to ensure that a copy of the notice has been sent to the Police

and Environmental Health as stipulated in the Act. Where a notice has been submitted electronically copies of the notice will be forwarded to the Responsible Authorities by the Local Authority.

- 2.34 The organiser must normally give the Licensing Authority a minimum of 10 clear working days' notice. This does NOT include the date of submission, the date of the event, weekends or bank holidays. In a significant number of cases this time period does not allow sufficient time for the organiser to liaise with the Police or Environmental Health and other relevant bodies to ensure that the event passes off safely with minimum disturbance to local residents. Therefore, the Licensing Authority will normally expect that the notice be submitted no earlier than 28 days before the planned event. The giving of 28 days' notice allows for reasonable discussions to take place with the Police and Environmental Health.
- 2.35 The Licensing Authority will consider any breach of previous voluntary agreements to be an important matter when considering an objection to a TEN application.
- 2.36 A late TEN may be served between nine and five working days before a proposed event commences. If a late TEN is served with fewer than 5 working days' notice it is deemed invalid and will be rejected. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines. If an objection is received to a late TEN there is no provision for any modification, hearing or adding existing conditions and a Counter Notice will be issued preventing the event from going ahead. There is no right of appeal in respect of late TENs following an objection by the Police or Environmental Health.
- 2.37 The Licensing Authority will actively encourage the organiser to notify other relevant agencies such as the Fire Authority (crowd safety and management) in order to obtain expert advice on how best to minimise the risk of injury and public nuisance.
- 2.38 In addition, whilst under the Act applicants do not have to notify the Planning Authority in respect of a temporary event, they are encouraged to do so to ensure that any relevant planning consent is in place.

Provisional statements

- 2.39 Where premises are being or are about to be constructed, extended or otherwise altered so that they can be used for licensable activities, those involved with the project or with an interest in it may request some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed.
- 2.40 Any person falling within Section 16 of the 2003 Act can apply for a premises licence before new premises are constructed, extended or changed. In those cases, the Licensing Authority would include a date when the licence would come into effect. However, where the information described below is not available an application for a provisional statement would be required instead:

- clear and legible plans of the proposed structure, compliant with the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005
- the activities to take place
- the time at which such activities will take place
- the proposed hours of opening
- where the applicant wishes the licence to have effect for a limited period, that period
- the steps to be taken to promote the licensing objectives
 - where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) and the name of the designated premises supervisor the applicant wishes to specify

2.41 The 2003 Act provides for a person who has an interest in the premises to apply for a “provisional statement”. This will not be time limited, but the longer the delay before an application for a premises licence is made, the more likely it is that there will be material changes and that the licensing authority will accept representations when the application for the premises licence is finally made.

2.42 Applications for a provisional statement are made in a similar manner to those for new and variation applications as set out above.

SECTION 3 – The Licensing Objectives

The Act sets out four licensing objectives which the Licensing Authority has a duty to promote when carrying out its licensing function, namely:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Each objective is of equal importance and these objectives are the only factors that can be considered in determining an application. Any conditions attached to a licence must be appropriate to promote the licensing objectives. If there are no relevant representations, or representations have been withdrawn at or no later than 24 hours before a hearing, then the application will be granted as applied for, subject to conditions which reflect the operating schedule and any mandatory conditions. Any conditions offered by the applicant within their operating schedule will become conditions on the licence.

Where there is a relevant representation, which has not been withdrawn, 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:

THE PREVENTION OF CRIME AND DISORDER

3.1

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 3 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 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](#) 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](#) 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 23:00 hours.

- (v) To help facilitate effective communications by means of radio communications, i.e. Storenet and nitenet radios 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 mandatory conditions to all premises licences and club premises certificates where alcohol is sold or supplied on the premises.
- (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. The provision of free potable (safe to drink) water is a mandatory condition.
- (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 Assessment. 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) Awareness of drink spiking and participation in anti-drink spiking initiatives.
- (x) Zero tolerance drug policies including the maintenance of an incident log, signage, staff training, appropriate use of searching/amnesty boxes to combat drug crime, an awareness of their venues and possible areas requiring greater monitoring. Businesses are expected to address drug activity by working in partnership with the Police.
- (xi) 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 3 for further information)

- (xii) To determine whether door stewards are to be employed at takeaway premises which provide late night refreshment.
- (xiii) 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).
- (xiv) 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 recommended that premises keep detailed training records that are available for inspection by Responsible Authorities.
- (xv) 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.
- (xvi) 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.
- (xvii) 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.
- (xviii) 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.
- (xix) To ensure that the written authorisations of the DPS to all staff are be kept on the premises.
- (xx) To implement a recommendation to support and participate in safety incentives such as 'Ask for Angela campaign' and [Project Nighteye](#) (Targeting violence against women and girls in the night time economy).

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

- (xxi) To sign up to Torbay's Safety of Women at Night Charter (SWaN) to improve the experience of women in Torbay at night, in both the town centres and harbourside area.
 - (xxii) To implement a recommendation for premises within designated areas of the Cumulative Impact Assessment to become an accredited venue with Best Bar None.
 - (xxiii) To write policies to ensure that all off sales are supplied in sealed containers for premises where there is a Public Space Protection Order, and it is believed that the alcohol will be consumed within that designated area. Any such policy should include the provision of notices to be clearly displayed where alcohol is sold, advising customers that the area is subject to a Public Space Protection Order.
 - (xxiv) To write policies to ensure that where alcohol is supplied by way of a delivery service, all delivery drivers are trained in Challenge 25, No proof no sale and that deliveries must only be made to a residential address and received by a person aged 18 or over..
 - (xxv) 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.

PUBLIC SAFETY

3.2

- 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 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) The Event Safety Guide (The Purple Guide) www.thepurpleguide.co.uk
 - (ii) Managing Risks and Risk Assessment at work – www.hse.gov.uk/simple-health-safety/risk/index.htm

- (iii) The Guide to Safety at Sports Grounds, 6th edition (The Stationery Office, ISBN 978-1-9164583-0-7 <https://sgsa.org.uk/greenguide-availablenow/>)

Fire safety

- 3.3 The Licensing Authority is committed to ensuring public safety in licensed premises by working in close partnership with the Fire Authority, subject to the provisions of the Regulatory Reform (Fire Safety) Order 2005. The Licensing Authority will consider relevant representations from the Fire Authority concerning the implications relating to fire safety for each individual application/variation for a premises licence and seek to protect the safety of all persons at all licensed premises by ensuring that the requirements of the Fire Authority are met.
- 3.4 In order to avoid the necessity for representations to be made, applicants will be advised where appropriate to consult the Fire Authority and ensure that they have sight of such documentation as may be required in order to allow a reasonable assessment to be made.
- 3.5 The Licensing Authority will consider applying capacity limits where there are valid reasons and where it has been demonstrated that they will promote any of the licensing objectives.

The Terrorism (Protection of Premises) Act 2025

- 3.6 The Terrorism (Protection of Premises) Act 2025, also known as Martyn's law, received Royal Assent on Thursday 3 April 2025. The aim of this new legislation is to improve safety and security at public venues, to help ensure that people are prepared, ready to respond and know what to do in the event of a terrorist attack.

It is expected that the implementation phase will be at least 24 months. This will include the publication of statutory guidance and establishing the regulator function within the Security Industry Authority (SIA), as well as ensuring there is time for businesses, premises and events to prepare for the legislation coming into force.

There will be a legal requirement on those responsible for certain venues to increase their preparedness for and protection from a terrorist attack by requiring them to take proportionate steps, depending on the size and nature of the activities that take place.

In the meantime, although terrorist attacks are rare, the threat from terrorism is real and increasingly unpredictable and therefore operators should consider the threat and implement appropriate and proportionate mitigation measures to ensure public safety.

Consequently, the Licensing Authority would expect large capacity venues and organisers of large events to consider the following measures:

- A requirement to engage with freely available counter-terrorism advice and training
- A requirement to conduct vulnerability assessments of their operating places and spaces
- A requirement to mitigate the risks created by any vulnerabilities identified
- A requirement to have a counter-terrorism plan
- Ensuring good communication networks with the Police and signing up for local incident alerts
- Ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.

Further information can be found at ww.protectuk.police.uk/martyns-law and www.gov.uk/government/publications/terrorism-protection-of-premises-act-2025-factsheets.

THE PREVENTION OF PUBLIC NUISANCE

3.7

- 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 3 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 3, 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.

Outdoor Areas and Smoking Areas

- 3.8 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.
- 3.9 Where applicants propose to provide seating, tables or other facilities in any outdoor area, whether covered or not, or to permit the use of outdoor areas as smoking areas, applicants will be expected to demonstrate in their operating schedule:
- a. Detail 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 d) 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.
 - e. Suitable and sufficient measures will be in place to prevent the escape of noise and other public nuisance from that outdoor area, from the licensed premises or from any of the licensable activities
 - f. Effective management controls and other measures are put in place this will include removal of seating/tables, presence of staff and installation of CCTV to ensure that licensable activities and the use of such areas by customers or other persons is controlled so as not to adversely impact on nearby residents
- 3.10 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.
- 3.11 Premises Licence Holders must take into account the needs of patrons with disabilities and comply with the requirements of the Equalities Act 2010.

- 3.12 After 23:00 hours consideration should be given to the impact of patrons using outside smoking areas. The Licensing Authority will normally expect the public use of external areas in the licensee's control to cease at 23:00 hours. Where outside areas will be in use after 23:00 hours additional management controls will need to be considered which may include limiting the number of patrons permitted in the area and the presence of security staff.
- 3.13 Following the implementation of the smoking ban in July 2007, the Licensing Authority recognises that smokers wishing to smoke will have to go outside the licensed premises. They may also want to take alcohol purchased inside for consumption outside. In some cases smoking will be in garden areas. In others, it may be on other parts of the licensed premises or even the highway.
- 3.14 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.
- 3.15 Where patrons are permitted to take drinks outside the premises the Licensing Authority will expect licensees to take such steps as possible to ensure glasses/bottles and other receptacles are not left outside. Where broken glass may become an issue this should be included within the management plan of the premises.
- 3.16 The premises may provide some form of shelter for those smoking outside, but these must not be fully or substantially enclosed in accordance with the Health Act 2006. Licensees should be aware of their responsibilities to prevent public nuisance.
- 3.17 Noise is likely to be caused not only from persons outside, but from the licensed premises if doors are continually opened or left open as customers go in and out.
- 3.18 If relevant representations are received, the Licensing Authority may consider conditions restricting the use of outside areas. Such conditions may include the prevention of drinks within the external area, restricting the carrying of any receptacle outside, prohibiting re-entry to premises after customers have left or restrictions on the number of people allowed at any one time in the outside areas and having dedicated staff to monitor the smoking area and take action where necessary.

- 3.19 The Licensing Authority may impose conditions on licences requiring the operators to provide cigarette disposal units in the vicinity of the premises and to carry out regular cleaning of the area as necessary in order to prevent public nuisance.

Night cafes and Takeaway Premises/Restaurants with delivery services

- 3.20 The Licensing Authority will look to applicants to evidence steps they will take to address these associated issues which can present a public nuisance issue which should include:
- Provision of bins outside to reduce littering by patrons
 - Evidence of commercial bin waste contract and pest control contract as necessary.
 - Management of outside queues or seating areas after 23:00 hours. Where a risk assessment deems it necessary security staff may be needed at busy times of the night or year when business is seasonal
 - Restrictions on the times for deliveries and when bins are emptied
 - Consider parking and access arrangement for any third-party delivery staff such as Uber Eats or Deliveroo as these can cause considerable public nuisance in terms of parking and noise
- 3.21 Premises open after 23:00 hours supplying hot food or hot drink for consumption on or off the premises can attract large groups of customers, many of whom have already consumed alcohol. The gathering of people around takeaways can lead to additional noise, disturbance and greater amounts of litter and rubbish.
- 3.22 Premises that operate late at night offering alcohol and/or takeaway food can generate concerns about antisocial behaviour and nuisance in the vicinity. It is expected that applicants should address such issues within their operating schedule.

Fly posting and promotional material

- 3.23 Torbay often faces the widespread problem of illegal and nuisance fly posting and littering from promotional material used to promote bands and events in the area. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.
- 3.24 Existing legislation seeks to address this problem however, it often proves ineffective in preventing this type of nuisance advertising. Some licence holders leave the advertising of regulated entertainment to events promoters and then

use this to argue that they are not responsible for any illegal fly posting that occurs.

- 3.25 The Licensing Authority expects responsible licence holders to ensure the licensed objectives are properly promoted when advertising regulated entertainment on their premises. For this reason, licence holders should outline in their operating schedules the steps to be taken ensure advertising of licensable activities does not cause nuisance or give risk to crime and disorder.
- 3.26 Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material. They should also maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule, the Licensing Authority will impose conditions to this effect when its discretion to do so has been engaged.
- 3.27 Businesses wishing to hand out any free printed material such as newspapers, leaflets, vouchers, business cards, stickers or promotional material in a specific area of Torquay, must also obtain a licence from the Council. Further information can be found at www.torbay.gov.uk/leaflets.

THE PROTECTION OF CHILDREN FROM HARM

3.28

- 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 which:

- (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 upon their reasonable request and that the premises has a written Age Verification Policy, which is also made available to a Responsible Authority upon their reasonable request. All members of staff must read and sign to confirm their understanding of such a Policy, in order to support compliance with the mandatory conditions. A free online toolkit is available to Torbay Licensed premises to assist with staff training and help prevent the illegal sale of age restricted goods. Further information can be found at 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.

- (v) 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 3.
- (vi) 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 Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) and its vicinity, the applicant (or ‘agent of change’) should be required by the local planning authority to provide suitable mitigation before the development has been completed.
- 4.3 Consider adding stricter conditions, limit hours and in some circumstances refuse types of regulated entertainment at premises in close proximity to residential premises.
- 4.4 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 3 for further advice and information).
- 4.5 Will include, when necessary, conditions limiting the access of children to licensed premises solely for the prevention of harm to children.
- 4.6 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 2013 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 at least 10 and no more than 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 and Deputy 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 and to have an information sharing agreement in place.
- 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 show signs of drunkenness.
 - 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.

- g) Promotion of the NiteNet, Pub Watch/local licensing forums, StoreNet or UKPAC 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 failing which the law requires the licence to be suspended until such fees are paid.
- Carrying on licensable activities while a licence has been suspended is a criminal offence and may result in enforcement action, including prosecution.
- The Authority would strongly encourage any premises licence holder to contact the Licensing Team to discuss any problems prior to their 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 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 within sight of an area where staff are present.

Appendix 1: 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

Torbay Children's Services
C/O Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208559
Email: CSCentral@torbay.gov.uk

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

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

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

Operational Support
Health and Safety Executive
North Quay House
Sutton Harbour
Plymouth
PL4 0RA
Tel: 0300 0031747
E-mail: formsadmin.plymouth@hse.gsi.gov.uk

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

Heart of the South West Trading Standards Service
County Hall
Topsham Road
Exeter
EX2 4QD
Tel: 01392 381381
Email: tsadvice@devon.gov.uk

Home Office (Immigration Enforcement)
IE Licensing Compliance Team (IELCT)
2 Ruskin Square (Floor 6)
Dingwall Road
Croydon
CR20 2WF
Email: IE.licensing.applications@homeoffice.gov.uk

(Home Office Immigration Enforcement is not a responsible authority in relation to club premises certificates).

In relation to vessels, Responsible Authorities also include navigation authorities within the meaning of S. 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated when being used for licensable activities.

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

Appendix 2 – 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		All cases	

authority considering the application.			
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 3: Supplementary Information

PREVENTION OF CRIME AND DISORDER

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

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.

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

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 upon reasonable request 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

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 to 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

The Licensing Authority may not approve applications for off sales near to alcohol addiction recovery activities or buildings, or in areas where drinking in public spaces undermines any of the licensing objectives.

Due to crime, disorder and anti-social behaviour issues with known street drinkers within Torbay, the Police 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, 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.

Where applications are granted, additional conditions or limitations such as trading hours may be appropriate. Additional conditions may include:

- No single cans or bottles of beer or cider will be sold
- No sale of high strength beers or ciders of 6.0% ABV and above.
- Minimum of two staff to be on duty at times the premises remain open for sale
- Staff must complete nationally recognised training on responsible alcohol retailing within two months of employment
- High strength beers or ciders will be for sale behind a counter accessed only by staff
- All alcoholic drinks will be clearly labelled or marked with the name of the premises

- The premises will operate a proof of age scheme such as Challenge 25
- Notices will be clearly displayed near to where alcohol is exposed for sale or sold advising customers that the area is subject to a Public Spaces Protection Order (PSPO)
- Restrictions on the design and placement of alcohol for sale

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

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.

There are some occasions where it will be appropriate to place a maximum safe occupancy figure as a licence condition to prevent crime and disorder and protect public safety. It will also be appropriate to limit the occupancy in certain parts of premises. Crowding can arise from inappropriate pedestrian flow patterns caused by poor location of entry and exit doors, dance floors, bars and toilets.

Overcrowding has been found to be linked to lower tolerance, increased frustration and conflict. The consequences of crowding will also depend on other factors such as levels of drunkenness and the extent of server intervention.

It is for the applicant to consider the maximum safe occupancy for each premises. A maximum occupancy figure may be expected as part of the operating schedule for premises that present a high risk, for example:

- Where the licensable area involves two or more floors, including mezzanines
- Where there is an expected capacity of greater than 500

- Premises which may be described as high-volume vertical drinking establishments, including any premises which attracts the fee multiplier
- Premises which have a licence to trade beyond midnight
- Where the use of pyrotechnics is likely
- Any premises within a cumulative impact area

Applicants will wish to consider maximum capacities based on means of escape from fire, toilet facilities, floor space and layout. The lower of these values should be used to set the maximum occupancy.

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 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. Please refer

to the Council's Guidance Notes on Noise Management Plans at www.torbay.gov.uk/new-premises-licence.

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. Applications for licensed premises located close to residential areas wishing to open beyond 23:00 hours will need to ensure that a high standard of control is included within their operating schedule so that, for example, any entertainment provided by a venue must be to entertain the patrons of that venue and not the wider community. Public nuisance (within the meaning envisaged by the Act) must not result from the operation of any venue.
8. Between the hours of 23:00 and 08:00 hours any new premises licence, or variation to a licence with hours beyond 23:00, is expected to include a condition of total sound containment within the licensed premises. Any existing licensed premises that cause disturbance between 23:00 and 08:00 hours are expected to take measures to reduce noise levels so as not to cause a nuisance to local residents.
9. 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.
10. To demonstrate proper consideration, Applicants are strongly encouraged to engage the services of and obtain appropriate 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.
11. 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 23:00 hours, 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. Sound attenuation works can be very costly and applicants should factor in the costs into their budget. It can 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.
17. 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.
18. 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.
19. 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.

Temporary Event Notices (TENs)

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.

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. Please refer to [Torbay Council's Noise Management Plan Guidance Note](#).

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

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-relate 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

Good practice would include the following:

- These events should finish no later than 23.00hrs 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 Disclosure and Barring Service 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.

Online alcohol sales and delivery services

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.

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.

It is expected that:

- All alcohol stored at the premises shall be locked in a secure storage area
- All staff responsible for making alcohol sales shall be trained in the requirements of the Challenge 25 age verification policy and in particular they will be required to have undergone training in refusal of supply where age verification is not provided, or the recipient is clearly intoxicated. The training should be documented.
- The premises licence holder shall ensure that all employees of any third party engaged in the delivery of alcohol, i.e. couriers, have also been trained by their employers regarding the Challenge 25 policy and this training should be documented.
- A refusals log will be maintained for deliveries and available for inspection on request.
- The Authority would expect operators to have systems in place to ensure alcohol is not delivered to problematic house parties or to people who appear drunk and, in such instances, alcohol should be refused and that refusal recorded.
- Alcohol shall be sold in sealed containers only.
- The premises licence holder will ensure that a sticker is applied to all consignments of alcohol stating 'Note to Delivery Service: this package contains age restricted products. Ensure recipient is over 18' (or similar wording to the same effect).
- All deliveries of alcohol shall only be delivered to a premises address with a valid postcode and will only be delivered directly to that property. Customers must be instructed when placing the order that they will not be able to collect the order from the vehicle.
- Full name and address details, including postcode, must be given when placing an order.
- Alcohol can only be delivered to a residential or business address and not to a public place.
- Challenge 25 - if the driver considers the recipient of alcohol appears under 25 recognised photographic identification must be requested before any alcohol is handed over.
- At the time the order is placed, a declaration will be required from the person placing the order that that person is over 18 years of age.
- Acceptable proof of age shall include identification bearing the customer's photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport. No ID no delivery.
- Minimum age of 18 for delivery drivers
- Delivery will be refused if the driver believes the alcohol is being purchased on behalf of another person aged under 18 years.

- Customers to be reminded on the website that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.
- Measures for minimising noise and disturbance caused by the dispatch of deliveries to be identified in the operating schedule.

Appendix 4: Premises type and potential impacts

Please refer to our 'Pool of Licensing Conditions' for appropriate conditions you should consider including within the operating schedule of your application to mitigate the potential impacts identified below. The pool of conditions can be found at www.torbay.gov.uk/new-premises-licence.

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. Drink/drug spiking. Premises may be within PSPO and / or CIA
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 Drink/drug spiking Premises may be within PSPO And / or CIA
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. Premises may be within PSPO
Restaurants and Cafes	Alcohol only sold to accompany food. Customers seated at tables Table service provided for food and alcohol.	Minimal disturbance from customers leaving. Limited drunkenness. No alcohol related violence.

	<p>Significant food offer. May provided limited entertainment. Premises plan includes dedicated kitchen and food preparation areas.</p>	
Off licences	<p>Alcohol only sold for consumption off the premise.</p>	<p>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. Premises may be within PSPO</p>
Takeaways	<p>Provision of takeaway food and soft drinks. No alcohol but will require a licence for late night refreshment between 2300 and 0500 hrs.</p>	<p>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. Premises may be within PSPO</p>
Hotels	<p>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.</p>	<p>Minimal issues in relation to hotel residents. Potential for drunkenness at public hire/functions. Child protection and safety issues may occur.</p>
Other entertainment venues	<p>Alcohol ancillary to other activities such as entertainment – e.g. bowling.</p>	<p>Minimal disturbance from customers leaving. Limited drunkenness. No violence. Potential for music noise.</p>
Theatres	<p>Alcohol ancillary to live theatrical performances.</p>	<p>Minimal disturbance from customers leaving. Drunkenness and violence are unlikely.</p>
Registered Clubs	<p>Only supply alcohol to members or bona fide guests. No DPS needed. May provide entertainment. Function Room available for commercial hire will require TEN.</p>	<p>Minimal disturbance from members leaving. Limited drunkenness. No violence. Possible noise from entertainment.</p>
Festivals and outdoor events	<p>Not alcohol led but food and alcohol will be available on site. Could attract large numbers of attendees.</p>	<p>Likely disturbance from large numbers attending.</p>

	<p>May have to submit Event Management Plan and Risk Assessments to Safety Advisory Group.</p>	<p>Alcohol consumption will exacerbate noise and nuisance issues.</p> <p>Dispersal may be an issue.</p> <p>Drug dealing and drug consumption likely.</p> <p>Drunkenness and violence are possible.</p> <p>Child protection and safety issues may occur.</p> <p>Premises may be within PSPO</p>
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Appendix 5: Safeguarding of children, young people and adults with care and support needs

Introduction

Set out below is information for licence holders to help them report, to the relevant authorities, matters of concern that could relate to the safety of children, young people and adults with care and support needs, particularly as it relates to child exploitation, abuse, modern slavery and human trafficking.

General Information

Torbay Council's Licensing Service is helping to tackle child exploitation, abuse, modern slavery and human trafficking by working with key partners, particularly Devon and Cornwall Police, Torbay Council Children and Adult Services, the Safeguarding Children Board, and the Adults Safeguarding Board. The Boards also work with the Police, children's and adults social care, schools, health services and the youth offending team as well as specialist child exploitation organisations.

Through agencies working together and sharing information, we aim to identify and prevent exploitation, modern slavery, and human trafficking to protect children, young people and adults with care and support needs and disrupt the activities in order to prosecute perpetrators of abuse.

Sharing information with Devon and Cornwall Police and Children's'/Adult Social Care helps to protect children, young people and adults with care and support needs from harm.

How licence holders can help tackle child exploitation, abuse and modern slavery

Licence holders may become aware of or come into contact with children, young persons and adults with care and support needs, or people who are victims of modern slavery or human trafficking. This may be in hotels, bars and restaurants, late night takeaways, off licences or other licensed premises. Licence holders and staff employed in licensed premises are in an ideal position to help protect people.

Safeguarding children, young people and adults with care and support needs is everyone's business and everyone's responsibility.

Child Exploitation

Exploitation of children and young people involve exploitation situations, contexts, and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing an activity on them. Violence, coercion, intimidation and sexual activity are commonly involved in such exploitative relationships.

Child sexual exploitation involves perpetrators grooming youngsters and using their powers to sexually abuse them. Sexual exploitation of children and young people

can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes.

Child exploitation is a crime that can affect any child, anytime, anywhere- regardless of their social or ethnic background.

In particular, licence holders and staff in licensed premises should ask themselves the following types of questions:

- Does your customer appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are children, young people or adults with care and support needs regularly being dropped off/picked up or collected and taken elsewhere from licensed premises such as a hotel, B&B or late-night takeaway?
- Is a child, young person or adult with care and support needs regularly being brought to a licensed premises such as a hotel or B&B where you work? If so, ask yourself why?

If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported.

If you have reason to suspect that a child is being abused or at risk of abuse it is your responsibility to report your concerns to and share information with Devon and Cornwall Police ([Tel: 101](tel:101) or if immediate risk [999](tel:999)) and Torbay Multi-agency Safeguarding Hub on Tel: 01803 208100 (Monday to Thursday 09.00-16.30, Friday 09.00-16.00) or the out of hours number on Tel: 0300 4564876. Please email for enquiries and referrals to MASH@torbay.gov.uk.

Adults with care and support needs

An adult with care and support needs is someone who is in need of community care services due to disability, age or illness. They may be unable to take care of or protect themselves against significant harm or exploitation.

In particular, licence holders and staff who work in licensed premises should ask themselves the following questions when coming into contact with children, young people or adults with care and support needs:

- Has your customer got any physical signs of abuse or neglect?
- Are they a regular customer? Do you see changes in their behaviour or mood?
- A customer tells you they are having difficulties with someone else
- A customer tells you they have a worry about someone
- A customer tells you they have hurt a person
- A customer tells you something they have seen or heard
- Do you know something that causes concern about someone else's welfare?
- You see worrying behaviour towards someone

If the answers to any of the questions above gives you even the slightest cause for concern you may need to take urgent action to protect the adult.

Your first priority is with the adult, to make them safe (including reporting to the Police if immediate action is required). If you or the person concerned need to raise a concern with Torbay Council to help, please contact 01803 219700 or out of hours 0300 4564876. Please email for enquiries and referrals to torbay.safeguarding@torbay.gov.uk

Modern Slavery and human trafficking

Modern slavery is a crime and a violation of fundamental human rights and can take various forms such as slavery, servitude, forced and compulsory labour and human trafficking.

In particular, licence holders and staff who work in licensed premises should ask themselves the following questions when coming into contact with children, young people or adults with care and support needs:

- Is the victim in possession of a passport, identification, or travel documents? Are these documents in possession of someone else?
- Does the victim act as if they were instructed or coached by someone else? Do they allow others to speak for them when spoken to directly?
- Was the victim recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators, whom they must pay back through providing services?
- Does the victim receive little or no payment for their work? Is someone else in control of their earnings?
- Was the victim forced to perform sexual acts?
- Does the victim have freedom of movement?
- Is the victim under the impression they are bonded by debt or in a situation of dependence?
- Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?
- Can the victim freely contact friends or family? Do they have limited social interaction or contact with people outside their immediate environment?

Report something suspicious you spot to the Police or other authorities – it could be at licensed premises where you work, where workers seem reticent to engage, not appropriately dressed for their work or increasingly ill fed and unkempt. Or a young person repeatedly being brought to a hotel by another person for short periods of time.

If there is an immediate danger to the suspected victim or if you think that the suspected victim is under 18, inform the police and call 999 as a matter of urgency. For England and Wales, please call the Modern Slavery 24-hour confidential referral helpline on 0800 0121700 anytime of the day or night to refer a victim of trafficking or receive advice. Further information can be found at www.modernslaveryhelpline.org

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TORBAY COUNCIL

Public Agenda Item: **Yes**

Title: Mediation Report - Information regarding delegated decisions for the grant/variation of premises licences

Wards Affected: **All**

To: **Statutory Licensing Committee** **24 July 2025**

Contact Officer: **Julie Smart, Licensing Officer**
Email: licensing@torbay.gov.uk

1. Key points and Summary

- 1.1 This report is to advise Members of the Committee of applications for the grant or variation of premises licences under sections 17 and 34 of the Licensing Act 2003, between 1 April 2024 and 30 June 2025, which have been mediated by the Licensing Team.

2. Recommendations

- 2.1 That Members note the report on delegated decisions for the grant/variation of premises licences.

3. Introduction

- 3.1 The Licensing Department deal with applications for the grant and variation of premises licences under the Licensing Act 2003.

Some of these applications have received representations from Responsible Authorities or other parties and have been mediated out by agreement with both the applicant and the respective Responsible Authority without the need to bring the application before the Licensing Committee for determination.

4. Responsible Authorities

4.1 Environmental Health

Premises Name	Address
John Bull	68-70 Chatto Road, Torquay

4.2 Devon and Cornwall Police

Premises Name	Address
North Sands Kiosk	Goodrington Beach, Paignton
I am Thai	144 Reddenhill Road, Torquay
MP Stores	17 Market Street, Torquay
Hampton by Hilton	4-24 Torwood Street, Torquay
School House Tearooms	Cockington Lane, Torquay
Dressed Crab	Vaughan Parade, Torquay

Drunken Horse Gin	4 Belle Vue Rad, Paignton
Meat 59	59 Abbey Road, Torquay
Svens Grill and More	96a Reddenhill Road, Torquay
Headland View Boutique Hotel	37 Babbacombe Downs Road, Torquay
Marldon Road Post Office	133 Marldon Road, Paignton
Cue Academy	122-126 Union Street, Torquay
Mambos Pizza	16-17 The Quay, Brixham

4.3 **Children's Services**

Premises Name	Address
Bollhayes Cider	9a Hyde Road, Paignton

5. **Considerations**

- 5.1 Paragraph 9.2 of the Guidance issued under Section 182 of the Licensing Act 2003 and Section 18(3)(a) of the Act states that a hearing does not have to take place if there are representations but all parties can reach an agreement through a mediation process. When written agreement has been made, representations are then withdrawn and the agreed conditions are included within the operating schedule. In such cases officers can determine the application.
- 5.2 The premises listed above are ones that have been dealt with by way of mediation and written agreement for the period between 1 April 2024 and 30 June 2025. This report is submitted for the information of the Committee.

Rachael Hind
Regulatory Services Manager (Commercial)

Appendices

None

Background Papers:

The following documents/files were used to compile this report:

[Torbay Council Licensing Policy 2021-2026](#)

[Home Office Guidance to Licensing Authorities under s.182 of the Licensing Act 2003](#)