



Wednesday, 16 May 2012

## LICENSING COMMITTEE

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

**Thursday, 24 May 2012**

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

### Members of the Committee

Councillor Addis (Chairman)

Councillor Amil  
Councillor Barnby  
Councillor Bent  
Councillor Brooksbank  
Councillor Cowell  
Councillor Doggett  
Councillor Ellery

Councillor Faulkner (A)  
Councillor Hytche  
Councillor James  
Councillor Parrott  
Councillor Pentney  
Councillor Stocks

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**Our vision is for a cleaner, safer, prosperous Bay**

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For information relating to this meeting or to request a copy in another format or language please contact:

**Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207026**

Email: [democratic.services@torbay.gov.uk](mailto:democratic.services@torbay.gov.uk)



# LICENSING COMMITTEE AGENDA

1. **Election of Chairman/woman**  
To elect a Chairman/woman for the 2012/2013 Municipal Year.
2. **Apologies**  
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Appointment of Vice-Chairman/woman**  
To appoint a Vice-Chairman/woman for the 2012/2013 Municipal Year.
4. **Minutes** (Pages 1 - 2)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 17 November 2011.
5. **Declarations of interest**
  - (a) To receive declarations of personal interests in respect of items on this agenda  
**For reference:** Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question). If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of personal prejudicial interests in respect of items on this agenda  
**For reference:** A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial 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 Democratic Services or Legal Services prior to the meeting.)
6. **Urgent items**  
To consider any other items that the Chairman decides are urgent
7. **Decisions Taken in Relation to Licensing Act 2003 Applications Under Delegated Powers** (Pages 3 - 6)

To consider a report that informs Members of the decisions taken in relation to Licensing Act 2003 applications by the Executive Head Community Safety under delegated powers.

**8. Decisions Taken in Relation to Gambling Act 2005 Applications Under Delegated Powers** (Pages 7 - 9)

To consider a report that informs Members of the decisions taken in relation to Gambling Act 2005 applications by the Executive Head Community Safety under delegated powers.

**9. Establishment of Licensing Sub-Committee** (Pages 10 - 13)

To consider a report that seeks to establish a Licensing Sub-Committee to deal with all matters in connection with licensing applications.



## Minutes of the Licensing Committee

17 November 2011

-: Present :-

Councillors Bent, Brooksbank, Doggett, Ellery, Faulkner (A), Hytche, James, Parrott, Pentney and Stocks

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### 375. Apologies

Apologies for absence were received from Councillors Amil, Butt and Cowell.

### 376. Minutes

The Minutes of the meeting of the Licensing Committee held on 2 June 2011 were confirmed as a correct record and signed by the Chairman.

### 377. Results of Unmet Demand Study of Taxis in Torbay 2011

Members considered a report which detailed the outcome of an Unmet Demand Study in respect of Hackney Carriages, as commissioned by Torbay Council in response to the guidance issued by the Department for Transport. This guidance states that a quantity control study of unmet taxi demand should be undertaken every three years. The Committee were advised that Halcrow had been employed to undertake the study.

Members paid particular attention to the wheelchair accessibility of the current fleet and whether the current Policy required updating. Members noted the recommendation within the study suggesting a trial taxi marshal scheme, however Members did not wish to pursue such a trial at the present time due to the economic climate, agreeing that should Members have concerns in respect of this matter they would raise them directly with the Environmental Health Manager (Commercial).

#### **Resolved:**

That Torbay Council maintains the current quantitative limit of Hackney Carriage licences at 162 full time licences, with seven summer only licences.

## Licensing Committee

Thursday, 17 November 2011

### **378. Decisions taken in relation to Licensing Act 2003 applications under delegated powers**

The Committee noted the report which set out the details of the decisions taken by the Executive Head, Community Safety in relation to the Licensing Act 2003 applications, using her delegated powers. Members were informed that the Licensing Policy required the decisions made under delegated powers to be reported to the Committee on a regular basis.

Members noted the number of applications dealt with and the number of Review Hearings which had been held in the period between 1 April 2011 and 30 September 2011. The Environmental Health Manager (Commercial) advised Members that two of the premises which were subject to a Review Hearing appealed to the Magistrates' Court. Following extensive negotiations, the outcome of these Appeals were by way of a Consent Order which imposed extensive conditions upon the Premises. He further expressed his thanks to the Council's Senior Lawyer and the Police Licensing Team for their hard work and support during the appeal process.

The Chairman congratulated the Committee and Officers of the Council for the part they played in Torquay being awarded a Purple Flag which recognises Torquay as a safe and enjoyable place to have a night out. He also congratulated the Cary Arms in Babbacombe for being 'one of the fifty best beach bars in the world' chosen by CNN.

### **379. Decisions taken in relation to Gambling Act 2005 applications under delegated powers**

Members noted the report which set out the decisions taken by the Executive Head, Community Safety in relation to the Gambling Act 2005 applications, using her delegated powers.

# Agenda Item 7



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

Title: **Decisions taken in relation to Licensing Act 2003 applications under delegated powers**

Wards Affected: **All**

To: **Licensing Committee** On: **24 May 2012**

Key Decision: **No**

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

Contact Officer: **Steve Cox**  
Telephone: **01803 208034**  
E.mail: **Steve.cox@torbay.gov.uk**

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## **1. What we are trying to achieve**

1.1 To inform Members of the decisions taken in relation to Licensing Act 2003 applications by the Executive Head Community Safety under delegated powers.

## **2. Recommendation(s) for decision**

2.1 That Members note the decisions made under delegated powers so that they maintain a general overview of the current licensing situation under the Licensing Act 2003.

## **3. Key points and reasons for recommendations**

3.1 Torbay Council's "Statement of Licensing Policy" (adopted December 2010) details the scheme of delegation under the Licensing Act 2003. This Policy also requires that the Licensing Committee receive regular reports (section 1.19) on delegated decisions, so that it can maintain a general overview of the current licensing situation.

**For more detailed information on this proposal please refer to Appendix A.**

**Frances Hughes  
Executive Head Community Safety**

## Appendix A – Supporting information to Report

### A1. Introduction and history

A1.1 The Licensing Act 2003 came into force on the 24<sup>th</sup> November 2005. On the 31<sup>st</sup> March 2012 Torbay Council had 818 Premises Licences/Club Premises Certificates; this is 13 less than 6 months earlier. Up until 31<sup>st</sup> March 2012 the Licensing Committee has dealt with 516 premises hearings, of which 6 were between 1<sup>st</sup> October 2011 and 31<sup>st</sup> March 2012. Additionally up to 31<sup>st</sup> March 2012, 2451 Personal Licences had been issued, of which 56 had been issued between 1<sup>st</sup> October 2011 and 31<sup>st</sup> March 2012.

A1.2 From 1<sup>st</sup> October 2011 and 31<sup>st</sup> March 2012, Torbay Council has dealt with the following applications under the Licensing Act 2003.

	<b>Total</b>
Premises/Club Premises Applications – New	9
Premises/Club Premises Applications – Variations	7
Premises/Club Premises Applications – Minor Variations	19
Personal Licences	56
Hearings (Licensing Committee/Sub-Committee)	6
Appeals (to Magistrates Court)	2
Temporary Event Notices	130
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Transfers of Premises Licences/Club Premises Certificates	44
Transfers of Designated Premises Supervisors	66

A1.3 The number of applications, being received by the Licensing and Public Protection Team was 35 compared to 34 in the previous 6 months. 19 of these were the Minor Variations, an increase of 5, while new applications decreased from 13 to 9. The number of hearings was down from 14 to 6. Overall this is a similar level of activity to the previous six months.

A1.4 The number of Personal Licences issued decreased from 90 to 56. While the number of Temporary Events Notices, showed an increase from 111 to 130 compared to the last winter period, this being the highest winter six month figure to date.

A1.5 There has been two appeals during the period, but none pending. These two appeals related to Committee decisions over the review of their licences. The first was to revoke the Old Brewery Licence, although after they agreed to accept a tranche of conditions which included the removal of the DPS, it was agreed that the licence could be retained. The Sportsman's appeal was over one

condition imposed by Committee about opening hours and the sale of alcohol and a compromise was able to be reached. There have now been 26 appeals previously, 9 arising from Review decisions.

A1.6 There were no Reviews made during the period. There have been 22 Reviews of Premises Licences, the majority instigated by The Police.

A1.7 Transfers of Licences and Designated Premises Supervisors variations remained similar in number.

A1.8 The general picture is therefore still a fairly static picture, however with a slight decrease in the total number of licences, which often happens during fee paying time.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

There are no risks associated with this report.

## **A3. Options**

A3.1 None. Members cannot change the Officer decisions but need to be appraised of the issues in accordance with the Licensing Policy.

## **A4. Summary of resource implications**

A4.1 There is a fairly static picture, so the income has remained the same.

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

A5.1 There are no equalities or environmental sustainability implications, however one of the Licensing Objectives is the "Prevention of Crime and Disorder", so the work will have a positive impact on reducing this.

## **A6. Consultation and Customer Focus**

A6.1 There is public consultation on all new and variation applications for a 28 day period.

## **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other Business Units, though the Local Children's Safeguarding Board and several teams within Community Safety are consultees on the applications.

## **Annexes**

None

## **Documents available in members' rooms**

None



**Background Papers:**

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

None

# Agenda Item 8



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

Title: **Decisions taken in relation to Gambling Act 2005 applications under delegated powers**

Wards Affected: **All**

To: **Licensing Committee** On: **24 May 2012**

Key Decision: **No**

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

Contact Officer: **Steve Cox**  
Telephone: **01803 208034**  
E.mail: **Steve.cox@torbay.gov.uk**

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## 1. What we are trying to achieve

1.1 To inform Members of the decisions taken in relation to Gambling Act 2005 applications in Torbay by the Executive Head Community Safety under delegated powers.

## 2. Recommendation(s) for decision

2.1 That Members note the decisions made under delegated powers so that they maintain a general overview of the current gambling situation under the Gambling Act 2005 in Torbay.

## 3. Key points and reasons for recommendations

3.1 Torbay Council's "Gambling Policy Statement" (adopted December 2009) details the scheme of delegation under the Gambling Act 2005. This Policy also requires that the Licensing Committee receive regular reports (Section 9.15) on delegated decisions so that it can maintain a general overview of the current gambling situation in Torbay.

**For more detailed information on this proposal please refer to Appendix A.**

**Frances Hughes**  
**Executive Head Community Safety**

## Appendix A – Supporting information to Report

### A1. Introduction and history

A1.1 The Gambling Act 2005 came into force on 1<sup>st</sup> September 2007. Torbay Council, as the Licensing Authority are responsible for the Premises Licences issued under the legislation, along with permits for gaming machines in a number of Premises, notably Unlicensed Family Entertainment Centres (UFEC's), Club and Pub Premises. The Gambling Commission are responsible for Operator Licences and Personal Licences.

A1.2 From 30th April 2007, Torbay Council became responsible for the administration and issuing of Premises Licences and UFEC's. Below are the applications dealt with between 1<sup>st</sup> October 2011 and 31<sup>st</sup> March 2012.

	<b>Total</b>
Casino Premises Licences – New	0 (1)
Casino Premises Licences – Variation	0
Bingo Premises Licences – New	1 (7)
Bingo Premises Licences – Variation	1
Betting Premises Licences – New	1 (20)
Betting Premises Licences – Variation	0
Adult Gaming Centre Premises Licences – New	0 (22)
Adult Gaming Centre Premises Licences – Variation	0
Family Entertainment Centre Premises Licences – New	0 (3)
Family Entertainment Centre Premises Licences – Variation	0
Unlicensed Family Entertainment Centre Gaming Machine Permit – New	1 (19)
Temporary Use Notices	0
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Hearings (Licensing Committee/Sub-Committee)	0
Appeals (to Magistrates Court)	0

The numbers in brackets are the total number of each type of Premises Licences issued. There have been two new Premises Licence applications, one for Bingo and one for Betting and 2 surrendered, one for an Adult Gaming Centre and one for Bingo. There has also been one surrendered and one new UFEC, which was at the same premises as it changed hands.

A1.3 In addition to the work above, the Licensing Authority is also responsible for Permits at Clubs and Pubs. At present, 19 Alcohol Licensed Premises gaming Machine Permit (3+ gaming machines), and increase of 2, 191 notifications (1 or 2 gaming machines) have been granted, an increase of 6, and 26 Club Gaming /Machine Permits.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

There are no risks associated with this report.

## **A3. Options**

A3.1 None. Members cannot change the Officer decisions but need to be appraised of the issues in accordance with Torbay Council's Gambling Policy.

## **A4. Summary of resource implications**

A4.1 There is no significant additional resource implications from routine Gambling Act work, however the demands of the Casino competition preparation work have added significantly to the workload of the team and other Business Units.

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

A5.1 There are no equalities or environmental sustainability implications, however one of the Licensing Objectives is "Preventing Gambling being a source of Crime and Disorder", so the work should have a positive impact on reducing this.

## **A6. Consultation and Customer Focus**

A6.1 There is public consultation on all New and Variation Premises Licence applications for a 28 day period before any licence is granted.

## **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other Business Units, though the Local Children's Safeguarding Board is a consultee on all applications.

## **Annexes**

None

## **Documents available in members' rooms**

None

## **Background Papers:**

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

None



Title: **Establishment of Licensing Sub Committee**

Wards Affected: **All Wards**

To: **Licensing Committee** On: **24 May 2012**

Key Decision: **No**

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

Contact Officer: **Kay Heywood**  
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E.mail: **Kay.heywood@torbay.gov.uk**

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## 1. **What we are trying to achieve and the impact on our customers**

1.1 To establish a Licensing Sub-Committee to deal with all matters in connection with licensing applications.

## 2. **Recommendation(s) for decision**

2.1 **That a sub-committee of the Licensing Committee be established to comprise three Members of the Licensing Committee;**

2.2 **that the terms of reference of the sub-committee be to consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles);**

2.3 **that the Licensing Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations; and**

2.4 **that the Governance Support Manager be authorised to empanel Members from the Licensing Committee to serve on the Licensing Sub-Committee as and when required.**

## 3. **Key points and reasons for recommendations**

3.1 The establishment of a Licensing Sub-Committee at this time will enable the requirements of the Licensing Act 2003 to be implemented as expediently as possible and will comply with prescribed timescales.

**For more detailed information on this proposal please refer to the supporting information attached.**

**Caroline Taylor  
Deputy Chief Executive and Commissioner for Corporate Support**

## **Supporting information to Report**

### **A1. Introduction and history**

- A1.1 The Licensing Act 2003 (section 6(1)) states that “each licensing authority must establish a licensing committee consisting of at least ten but not more than fifteen members of the authority”. At the meeting of the Council held on 16 December 2004 (minute 425/12/04 refers), Members considered Report Env/61/04 setting out the recommendations of Licensing Working Party in relation to the new licensing arrangements. The Council agreed to establish a committee comprising 15 Members to carry out the licensing functions of the Council.
- A1.2 The Act also provides for the establishment of one or more sub-committees (Section 9(1)), consisting of 3 members of the Committee. The committee may arrange to delegate any of its functions to the sub-committees, and the sub-committees may in turn delegate the functions concerned to an officer of the licensing authority (subject to certain exemptions).
- A1.3 In order to expedite the Licensing Authority’s functions, it would be preferable for all new and existing licensing functions of the Council to be delegated to sub-committees. The Licensing Committee would therefore in practice only meet twice a year to consider:
- Regular reports on decisions made by officers;
  - Any information it wishes to pass to the Development Control Committee;
  - Reports on the needs of the local tourist economy; and
  - Reports on the local employment situation
  - Reports on changes to licensing policy e.g. Licensing, Gambling, Taxi etc.
- A1.4 The sub-committee would therefore deal with the majority of licensing matters. Given the frequency of meetings of the sub-committee, it may not always be possible to secure membership which is politically balanced. It is proposed that the composition of the sub-committee should not be governed by political balance. Any decision to waive the political balance will require a resolution of the Licensing Committee with no Member voting against.

### **A2. Risk assessment of preferred option**

#### **A2.1 Outline of significant key risks**

- A2.2 The legislation in respect of applications and notices under the Licensing Act 2003 requires a very short timescale in which some matters must be decided. Failure to appoint a Licensing Sub-Committee will cause difficulties in meeting such timescales and will require the full Committee or the Council to make required decisions with associated resource implications.

### **A3. Options**

- A3.1 It is the intention that the sub-committee would be appointed by the Licensing Committee. The sub-committee does not have to have a fixed membership,

providing all three of the Members are drawn from the parent Licensing Committee. The Council could determine to appoint the sub-committees.

**A4. Summary of resource implications**

A4.1 Costs associated with the operation of the sub-committee will be met from existing budgets.

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

A5.1 There are no equalities or environmental sustainability implications, however one of the Licensing Objectives is the 'Prevention of Crime and Disorder', so the work should have a positive impact on reducing this.

**A6. Consultation and Customer Focus**

A6.1 The legislation associated with licensing and gambling requires stipulated procedures to be followed, including the right to personal attendance and representation for the parties to a contentious matter. A Sub-Committee facilitates the necessary and required discussion of the issues more favourably than the full committee.

**A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other business units.

**Appendices**

None

**Documents available in members' rooms**

None

**Background Papers:**

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

Licensing Act 2003

Gambling Act Policy/Statement of Principles