

LICENSING COMMITTEE

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

Thursday, 23 May 2013

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

The Membership of the Licensing Committee will
be available after the Adjourned Annual Council Meeting
on Wednesday, 15 May 2013

Working for a healthy, prosperous and happy Bay

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: governance.support@torbay.gov.uk

LICENSING COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the 2013/14 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 elect a Vice-Chairman/woman for the 2013/14 Municipal Year.
4. **Minutes** (Pages 1 - 2)
To confirm as a correct record the Minutes of this Committee held on 31 January 2013.
5. **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.)
6. **Urgent items**
To consider any other items that the Chairman decides are urgent
7. **Hackney Carriage Tariff Increase** (Pages 3 - 9)
An application to request that Torbay Council agrees to advertise a proposed Hackney Carriage maximum fee tariff increase.
8. **Decisions taken in relation to Licensing Act 2003 applications under delegated powers** (Pages 10 - 12)
A report advising member on the delegated decisions made by officers under the Licensing Act 2003.

- 9. Decisions taken in relation to Gambling Act 2005 applications under delegated powers** (Pages 13 - 15)
A report advising members of delegated decisions made under the Gambling Act 2003 by officers.
- 10. Establishment of Licensing Sub-Committee** (Pages 16 - 19)
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

31 January 2013

-: Present :-

Councillor Addis (Chairman)

Councillors Amil, Bent, Brooksbank, Butt, Doggett, Ellery, Hytche, Parrott, Pentney and Stocks

14. Apologies

Apologies for absence were received from Councillors Faulkner (A), Barnby and Cowell.

15. Minutes

The Minutes of the meeting of the Licensing Committee held on 27 September 2012 were confirmed as a correct record and signed by the Chairman.

16. Hackney Carriage and Private Hire Licensing Policy

Members considered a report on the Hackney Carriage and Private Hire Licensing Policy which had been the subject of a 12 week consultation period. Members were informed that a number of Representations had been received and following consideration by Officers, amendments to the Policy had been proposed and were set out in the submitted report.

At the meeting the Committee received oral Representations from Mr Cree, Mr Le Huray and Mr James.

Resolved:

That the Hackney Carriage and Private Hire Licensing Policy be approved, subject to the inclusion of the amendments set out in the submitted report with the exception of:

- i) paragraph A1.6, bullet point 5 – Adhesive door signs. The wording of the existing policy is to remain with minor changes being delegated to the Chairman of the Licensing Committee in consultation with the Council's Senior Lawyer for Litigation & Licensing;
- ii) paragraph A1.7, bullet point 2 being amended to '...new Driver Standard Assessments for new drivers and existing drivers who receive **over 6** points...';

- iii) paragraph A1.9 (paragraph 5.13 of the policy), being amended to 'The Licensing Authority aspires that all drivers are trained to BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire Standards **or equivalent qualification which are to the satisfaction of the Licensing Authority**'; and
- iv) paragraph A1.11 (paragraph 14.6 of the policy), being amended to 'The Licensing Authority aspires to achieve **5%** wheelchair accessible vehicles by 2018 with regard to both hackney carriage and private hire vehicles'.

17. Decisions taken in relation to Licensing Act 2003 applications under delegated powers

Members noted the report which set out the decisions made under delegated powers by the Executive Head of Community Safety in relation to Licensing Act 2003 applications.

18. Decisions taken in relation to Gambling Act 2005 applications under delegated powers

Members noted the report which sets out decisions made under delegated powers by the Executive Head of Community Safety in relation to Gambling Act 2005 applications.

Chairman

Agenda Item 7



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

Title: **Hackney Carriage Tariff Increase**

Wards Affected: **All**

To: **Licensing Committee** On: **23 May 2013**

Key Decision: **No**

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

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

1. What we are trying to achieve

1.1 This report concerns a request from the Torbay Licensed Taxi Association to increase the applicable fare tariff in respect of all Hackney Carriages in Torbay.

2. Recommendation(s) for decision

2.1 That the appropriate Public Notices are placed to advertise the requested increase in the Hackney Carriage Fare Scale, as set out in the email from the Torbay Licensed Taxi Association. This is shown in Appendix 1.

2.2 That any responses to the Public Notice be considered by the Licensing Sub-Committee.

2.3 In the event that no objections are received, the new tariff will take effect from the 1st July 2013.

3. Key points and reasons for recommendations

3.1 Under the terms of the Local Government (Miscellaneous Provisions) Act 1976, a Local Licensing Authority may determine the maximum level of charges to be levied by all Hackney Carriages operating under its control.

3.2 An email has been received on the 18th April 2013 from the Torbay Licensed Taxi Association requesting that an increase be considered in the current year. Although the Torbay Licensed Taxi Association represents many in the Hackney Carriage trade, a significant number are not members of the Association.

- 3.3 It will be necessary to advertise the proposals by way of Public Notice for 14 days and in the event that objections are received, these responses must be considered by the Licensing Sub-Committee before any increase can take effect. If no objections are received, the new fares tariff will commence from 1st July 2013.

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

Frances Hughes

Assistant Director Environmental Health and Consumer Protection

Appendix A – Supporting information to Report

A1. Introduction and history

- A1.1 Under the terms of the Local Government (Miscellaneous Provisions) Act 1976, a Local Licensing Authority may determine the maximum level of charges to be levied by all Hackney Carriages operating under its control. Fares have been so determined for many years, with regular reviews.
- A1.2 An email has been received on the 18th April 2013 from the Torbay Licensed Taxi Association requesting that an increase be considered in the current year. This is set out in correspondence attached as Appendix 1. Although the Torbay Licensed Taxi Association represents many in the Hackney Carriage trade, a significant number are not members of the Association.
- A 1.3 The proposed request is that, Tariff 1 journeys be charged at £2.70 for the first 470 yards (430 metres) or part thereof, then 15p for each subsequent 135 yards (123 metres), or part thereof. This is an increase in the initial charge from £2.50 to £2.70 and a reduction from 141 yards (129 metres) to 135 yards (123 metres). Tariff 1 is applicable for all hiring's made between 7 am and 11 pm on any day except Sundays and Bank Holidays.
- A1.4 Tariff 2 journeys to be charged at £3.00 for the first 470 yards (430 metres) or part thereof, which remains the same, then 20p for each subsequent 135 yards (123 metres), or part thereof. This is a reduction from 141 yards (129 metres) to 135 yards (123 metres). Tariff 2 relates to journeys at all other times, including night times, Sundays, Bank Holidays, Christmas Eve and New Year's Eve.
- A1.5 The last increase in fares was agreed on the 18 August 2011 and came in to force on 15 September 2011. Details of the current charges are shown in Appendix 2.
- A1.7 It will be necessary to advertise the proposals by way of Public Notice for 14 days and in the event that objections are received, these responses must be considered by the Licensing Sub-Committee before any increase can take effect. If no objections are received, the new fares tariff will commence from 1st July 2013.
- A1.8 There is no right of appeal to the decision.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no significant risks.

A3. Options

- A3.1 The other options are to refuse the proposed fare increase or to ask the Torbay Licensed Taxi Association for additional information, to assist in making a determination.

A4. Summary of resource implications

- A4.1 There are no resource implications for the Council

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

A5.1 There are no equalities, environmental sustainability or crime and disorder issues.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation, to date, but one is required as part of the procedures before the fare increase can come in to effect.

A7. Are there any implications for other Business Units?

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

Appendices

Appendix 1 Copy of an email dated 18th April 2013 from Torbay Licensed Taxi Association

Appendix 2 Summary of Current Charges from 15th September 2011

Documents available in members' rooms

None

Background Papers:

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

None

Agenda Item 7

Appendix 1

Cox, Steve

Subject: FW: UNCLASSIFIED: RE: Increase request for taxi fares

From: David Squibb [mailto: [REDACTED]]
Sent: 18 April 2013 15:48
To: Cox, Steve
Subject: Fwd: Increase request for taxi fares

Begin forwarded message:

From: "Chris Prowse" [REDACTED]
Date: 18 April 2013 15:27:07 BST
To: <[REDACTED]>
Subject: Increase request for taxi fares

F.A.O. Mr Steve Cox,
Licensing Officer,
Torbay Council.

18th April 2013.

Dear Steve,

Re; Proposed Fare Increase.

I have recently been appointed Chairman of the Torbay Licensed Taxi Association and at a recent meeting of our members it was agreed to request a fare increase from the local authority.

Our request is as follows,

Tariff 1.

To increase the pull off rate from £2.50 to £2.70 for the first 470yds. To reduce the subsequent yardage from 141yds to 135yds.

Tariff 2.

To make no alteration to the pull off rate but again to reduce the subsequent yardage to 135yds from 141yds.

I trust this request will meet with your authority's approval.

Yours sincerely,

David Squibb
Chairman

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Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

**Existing Maximum Hackney
Carriage Fare Scale as approved
with effect from 15th September
2011:**

Tariff 1 – initial charge of £2.50 for the first 470 yards (430 metres), or part thereof, then 15p for each subsequent 141 yards (129 metres), or part thereof, and waiting time to be charged at 15p for each 40 seconds;

Tariff 2 – Initial charge of £3.00 for the first 470 yards (430 metres), or part thereof, then 20p for each subsequent 141 yards (129 metres), or part thereof, and waiting time to be charged at 18p for each 40 seconds;
and

Additional charges – 20p for each additional passenger, 50p call out charge and £50 for any fouling of the hackney carriage. No additional charges will be made for luggage, perambulators, pushchairs, wheeled trolleys or animals.



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: **23 May 2013**

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**

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 24th November 2005. On the 31st March 2013 Torbay Council had 793 Premises Licences/Club Premises Certificates; this is 27 less than the previous 6 months predominately due to redundant licences being surrendered due to the annual fee invoices and the new threat of suspensions if fees aren't paid. Up until 31st March 2013 the Licensing Committee has dealt with 530 premises hearings, of which 9 were between 1st October 2012 and 31st March 2013. Additionally up to 31st March 2013, 2619 Personal Licences had been issued, of which 79 had been issued between 1st October 2012 and 31st March 2013.

A1.2 From 1st April and 30th September 2012, Torbay Council has dealt with the following applications under the Licensing Act 2003.

	Total
Premises/Club Premises Applications – New	9
Premises/Club Premises Applications – Variations	10
Premises/Club Premises Applications – Minor Variations	13
Personal Licences	79
Hearings (Licensing Committee/Sub-Committee)	9
Appeals (to Magistrates Court)	1
Temporary Event Notices	111
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Transfers of Premises Licences/Club Premises Certificates	42
Transfers of Designated Premises Supervisors	62

A1.3 The number of applications, being received by the Licensing and Public Protection Team was 32 compared to 25 in the previous 6 months. The increase is in Minor Variations. The number of hearings was up from 5 to 9. Overall this is a slight increase in activity compared to the previous six months.

A1.4 The number of Personal Licences issued increased from 67 to 79. While the number of Temporary Events Notices, showed a decrease from 130 to 111 compared to the last winter period.

A1.5 There has been one appeal during the period. There have now been 27 appeals, 10 arising from Review decisions. The appeal related to a review of Café Mambo with the majority of the original committee decision being upheld by the Magistrates Court.

- A1.6 There have been 23 Reviews of Premises Licences in total, the majority being instigated by The Police.
- A1.7 Transfers of Licences and Designated Premises Supervisors variations showed a slight increase in number.
- A1.8 The general picture is therefore still a fairly static picture, however with a 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 9



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: **23 May 2013**

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**

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 1st 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 1st October 2012 and 31st March 2013.

	Total
Casino Premises Licences – New	0 (1)
Casino Premises Licences – Variation	0
Bingo Premises Licences – New	1 (8)
Bingo Premises Licences – Variation	0
Betting Premises Licences – New	0 (19)
Betting Premises Licences – Variation	0
Adult Gaming Centre Premises Licences – New	0 (23)
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	0 (18)
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 one new Premises Licence applications for Bingo.

A1.3 In addition to the work above, the Licensing Authority is also responsible for Permits at Clubs and Pubs. At present Torbay Council has granted 18 Alcohol Licensed Premises gaming Machine Permit (3+ gaming machines), an increase

of 1; 208 notifications (1 or 2 gaming machines), an increase of 7; and 25 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.

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: **23 May 2012**

Key Decision: **No**

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

Contact Officer: **Kay Heywood**
Telephone: **01803 207026**
E.mail: **Kay.heywood@torbay.gov.uk**

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.

**Anne-Marie Bond
Executive Head of Commercial Services**

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