



Wednesday, 22 July 2015

LICENSING COMMITTEE

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

Thursday, 30 July 2015

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 Manning (Chairman)

Councillor Barnby	Councillor Sykes
Councillor Brooks	Councillor Tolchard
Councillor Cunningham	Councillor Winfield
Councillor King	Councillor Doggett (Vice-Chair)
Councillor Lang	Councillor Stocks
Councillor Morris	Councillor Ellery
Councillor Stubleby	Councillor Parrott

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:

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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 1 - 3)
To confirm as a correct record the Minutes of the meeting of this Committee held on 4 June 2015.
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. **Gambling Act 2005 'Draft Statement of Principles 2016,' (Gambling Policy)** (Pages 4 - 50)
To consider the Draft Statement of Principles 2016 (Gambling Policy) before public consultation.
6. **Licensing Act 2003 'Draft Statement of Principles 2016,' (Licensing Policy)** (Pages 51 - 106)
To consider the Draft Statement of Principles 2016 (Licensing Policy) before public consultation.



Minutes of the Licensing Committee

4 June 2015

-: Present :-

Councillors Barnby, Cunningham, Doggett (Vice-Chair), Ellery, King, Morris, Parrott, Stocks, Stubbley, Sykes and Tolchard

1. Election of Chairman/woman

Councillor Manning was elected Chairman for the 2015/2016 Municipal Year.

2. Apologies

An apology for absence was received from Councillor Lang.

3. Appointment of Vice-Chairman/woman

Councillor Doggett was elected Vice-Chairman for the 2015/2016 Municipal Year.

4. Minutes

The Minutes of the meeting of the Licensing Committee held on 22 January 2015 were confirmed as a correct record and signed by the Chairman.

5. Wheelchair Accessible Vehicles

Members were advised that on the 22 January 2015 the Licensing Committee set an aspiration level of 20% for all of the Hackney Carriage and Private Hire Fleet to be wheelchair accessible by 2018 and requested that a report be brought to the next Licensing Committee to consider a range of options.

Members were also advised that an Unmet Demand Survey had been undertaken by a private contractor, which involved talking to drivers, owners and users and what barriers had been identified and incentives to be implemented to encourage Wheelchair Accessible Vehicles.

Members were asked to consider three possible options to achieve the a new aspiration to make 20% of the Hackney Carriage and Private Hire Fleet wheelchair accessible by 2018 and to undertake a public consultation on the potential changes to the Torbay Council Hackney Carriage and Private Hire Vehicle licensing Policy.

Licensing Committee

Thursday, 4 June 2015

Resolved:

- i) that a public consultation exercise be undertaken for a period of six weeks and that a further report is written for a future Licensing Committee to consider the representations made and any final Policy changes to be agreed; and
- ii) Torbay Council will set the vehicle application or vehicle renewal fee for Wheelchair Accessible Vehicles at half the financial amount set for non Wheelchair Accessible Vehicles;
- iii) Torbay Council requires all new and replacement Hackney Carriage and Private Hire Vehicles from 1st November 2015 to be Wheelchair Accessible Vehicles; and
- iv) Torbay Council requires from 1st November 2015 that all new Hackney Carriage and Private Hire Vehicles with 5 passenger seats or more, to be Wheelchair Accessible Vehicles and those vehicles will have a higher rate of tariff set for those journeys where 5 or more passengers are carried.

6. 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 delegated powers.

7. Decisions Taken in Relation to Gambling Act 2005 Applications Under Delegated Powers

The Committee noted the report which set out the details of the decisions taken in relation to the Gambling Act 2005, taken by the Executive Head, Community Safety, in relation to the Gambling Act 2005 applications, using their delegated powers.

8. Establishment of Licensing Sub-Committee

The Committee considered a report in relation to the establishment of a Licensing Sub-Committee which would be able to deal with all matters in connection with licensing application. It was noted that the Licensing Act 2003 provided for the establishment of one or more sub-committees (Section 9 (1)), consisting of 3 members of the Committee.

Licensing Committee

Thursday, 4 June 2015

Resolved:

- (i) that a sub-committee of the Licensing Committee be established to comprise of three Members of the Licensing Committee;
- (ii) 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) and the Hackney Carriage (Taxi) and Private Hire Policy;
- (iii) that the Licensing Sub-Committee be exempt from the rules of Committee proportionality, as defined in the Local Government and Housing Act 1989 and supporting regulations; and
- (iv) that the Governance Support Manager (in consultation with the Chairman), be authorised to empanel Members of the Licensing Committee to serve on the Licensing Sub-Committee as and when required.

Agenda Item 5



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

Title: **Gambling Act 2005**
'Statement of Principles 2016', (Gambling Policy)

Wards Affected: **All**

To: **Licensing Committee** On: **30th July 2015**

Key Decision: **No**

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

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1. What we are trying to achieve

- 1.1 To inform Members of the content of the draft 'Gambling Policy', (*hereinafter referred to as the 'Statement of Principles 2016'*), which Torbay Council is required to write and publish every three years.
- 1.2 To provide Members with an opportunity to make Representations on the draft 'Statement of Principles 2016'.

2. Recommendation(s) for decision

- 2.1 There is no recommendation for a decision, as this is a Full Council function. At this stage the draft 'Statement of Principles 2016' is a draft consultation document, and so Representations made by the Licensing Committee will be considered as part of that consultation process.

3. Key points and reasons for recommendations

- 3.1 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.
- 3.2 The Gambling Act 2005 and Codes of Practice issued under the Act, require Licensing Authority's who are authorised to issue a 'Small Casino Premises Licence' to include within their revised 'Statement of Principles' certain

information. This includes information on how the '*Small Casino Premises Licence Application Process*' will be undertaken by the Council, including the 'greatest benefit test headline criteria' that will be applied to any applications received. This remains unchanged from the current 'Statement of Principles 2013'.

- 3.3 The final draft 'Statement of Principles 2016' will be a public document, which will be subject to a statutory 12 week consultation period and any person, body or organisation that may wish to make a Representation or comment upon the draft statement (including Elected Members), will be formally invited to do so.
- 3.4 The Council has a statutory responsibility under the Gambling Act 2005 to complete this process of Policy review, publication, consultation, consideration, approval and implementation on or before 30th January 2016. That being the date specified by the Secretary of State, as the 'relevant appointed date' under the Act.

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 requires Torbay Council, as a Designated Licensing Authority, to review and publish a ‘Statement of Principles’ (*the Gambling Policy*), every three years, outlining the procedures it intends to follow in discharging its statutory responsibilities under the Act. The last ‘Statement of Principles’ was agreed by Council on 6th December 2012 and was published before the 30th January 2013; that being the date specified by the Secretary of State as the ‘relevant appointed date’ under the Act.
- A1.2 In accordance with that requirement, the Council has reviewed its current Policy and has prepared a draft ‘Statement of Principles 2016’ which will be formally published in early August 2015 inviting public consultation and comment.
- A1.3 The Gambling Commission are currently consulting on changes to the Local Authority Guidance, for a new 5th Edition. The significant changes are that Local Authorities will be able to develop Local Area Profiles and Operators of Licensed Premises will in the future need to submit a Local Risk Assessment for new and/or variation applications. The draft ‘Statement of Principles 2016’ has been amended to include these anticipated changes.
- A1.4 On 15th May 2008 the ‘*Categories of Casino Regulation 2008*’ and the ‘*Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008*’ were approved by the Secretary of State for Culture, Media and Sport. This order specified which Licensing Authorities could issue premises licences for both large and small casinos; Torbay Council’s Licensing Authority was included in that order and was authorised to issue one ‘Small Casino Premises Licence’.
- A1.5 On 26th February 2008 the Secretary of State for Culture, Media and Sport issued the ‘*Code of Practice on Determinations Relating to Large and Small Casinos*’. The Licensing Authority must comply with the Code of Practice which states:
- The procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005.
 - Matters to which the Licensing Authority should have regard in making those determinations.
- A1.6 The Code of Practice places a requirement on those Licensing Authority’s authorised to issue a ‘Small Casino Premises Licence’, to include certain information within their revised ‘Statement of Principles’. This includes information on how the ‘*Small Casino Premises Licence Application Process*’ will be undertaken by the Council, including the ‘greatest benefit test headline criteria’ that will be applied to any applications received. The sections relating to the Small Casino remain unchanged.
- A1.7 This draft ‘Statement of Principles 2016’ is a public document, which will be subject to a statutory 12 week consultation period that concludes in October 2015 and any person, body or organisation that may wish to make a

Representation or comment upon the draft statement (including Elected Members), is formally invited to do so.

A1.8 Upon completion of the statutory consultation period, the Council will consider any Representations which may have been made and if necessary, amend the draft 'Statement of Principles 2016' accordingly.

A1.9 It is intended that the draft 'Statement of Principles 2016' will be considered and commented upon by Philip Kolvin QC, so incorporating any changes following the consultation period and before it is agreed at Full Council and published.

A1.10 Approval of the finalised 'Statement of Principles 2016' is a Full Council decision and a report on the draft 'Statement of Principles 2016' will be presented to Full Council for consideration on 10th December 2015.

A1.11 The Council has a statutory responsibility under the Gambling Act 2005 to complete this process of Policy review, publication, consultation, consideration, approval and implementation; on or before 30th January 2016, being the date specified by the Secretary of State as the 'relevant appointed date' under the Act.

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, as only Representations can be made.

A4. Summary of resource implications

A4.1 There are no significant additional resource implications that will derive from the Council discharging its statutory obligations, under the Gambling Act 2005. However, it should be noted that the 'Small Casino Premises Licence Process', will add significantly to the overall workload of Torbay Council's Licensing Team in meeting the statutory requirements placed upon it.

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 Gambling Act 2005 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 will be a 12 week public consultation on the draft 'Statement of Principles 2016', during August and October 2015. The Council has also undertaken direct consultation with the 'Responsible Authorities' designated by the Act and with those parties identified as 'Stakeholders' to the Gambling Act 2005 licensing

regime.

A7. Are there any implications for other Business Units?

A7.1 There are no significant implications for other business units relating to this report but again it should be noted, that the demands of the 'Small Casino Premises Licence Process' will add significantly to the workload of other Business Units, notably Legal Services, Planning, Procurement, Finance, the Press Office and the Information Compliance Team.

Annexes

Annex 1 Draft 'Statement of Principles 2016'

Documents available in members' rooms: Copies of all Background Papers.

Background Papers:

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

- 1 Gambling Act 2005.
- 2 Gambling Commission Revised Guidance to Licensing Authorities: 4th Edition issued February 2013
- 3 Code of Practice Issued by the Secretary of State for Culture, Media and Sport on 26th February 2008: Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos.
- 4 Torbay Council Gambling Policy 2013.



STATEMENT OF PRINCIPLES 2013 GAMBLING ACT 2005

FORWARD

Torbay Council is designated as a 'Licensing Authority' for the purposes of the Gambling Act 2005 (hereinafter referred to as 'the Act'), under Section 2 (1) of Part 1 to the Act.

This document is Torbay Council's 'Statement of Principles', made under Section 349 of the Gambling Act 2005 and supports the Torbay Council's vision working for a healthy, prosperous and happy Bay.

Torbay is a popular well-established holiday destination situated on the South Devon Coast, on the South West peninsular of England. Torbay comprises 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. Torbay is an outstanding coastal destination, including 22 miles of coastline which has shaped its economic and social development over time. Historically the local economy has focused on tourism, fishing and to a lesser extent manufacturing activities.

The three towns of Torbay and its environs have a combined population of over 130,000 which can increase to over 200,000 in the summer months making Torbay the second largest conurbation to the south west of Bristol. Tourism in Torbay today accounts for 1.45 million staying visitors plus 3.8 million day visitors, generating a direct and indirect spend of £442 million per annum. This represents around one third of the area's wealth and also one third of its jobs.

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

www.torbay.gov.uk

MAP of TORBAY

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**This 'Statement of Principles XXXX' was approved and adopted by Torbay Council on
XXX December 2015**

PART A ~ OVERVIEW

1 THE LICENSING OBJECTIVES

1.1 In exercising its functions under the Gambling Act 2005, the Licensing Authority will have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- b) Ensuring that gambling is conducted in a fair and open way.
- c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

[The Act defines a 'Child' as an individual aged 15 years or under; and defines a 'Young Person' as an individual aged 16 to 17 years].

1.2 In making decisions in relation to premises licences the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks that use will be:

- a) In accordance with any relevant code of practice issued by the Gambling Commission.
- b) In accordance with any relevant guidance issued by the Gambling Commission.
- c) Reasonably consistent with the licensing objectives (subject to the above).
- d) In accordance with Torbay Council's 'Statement of Principles', issued under the Act (subject to the above).

2 INTRODUCTION

2.1 Torbay is situated on the South Devon coast, on the south west peninsular of England and comprises the three towns of Torquay, Paignton and Brixham. Torbay is an outstanding coastal destination, including 22 miles of coastline, which was recognised as a Global Geopark in 2007. The Council area is mainly urban, comprising the three bay towns of Torquay, Paignton, and Brixham; there is a map of the Torbay area on page 2.

2.2 Under the Gambling Act 2005 Torbay Council must publish a statement of the principles which it intends to apply when exercising its functions under the Act, and that statement must be published at least every three years.

2.3 Torbay Council has consulted widely upon a 'Draft Statement of Principles 2016', before approving and publishing the finalised 'Statement of Principles 2016'.

The draft version of this 'Statement of Principles 2016' was published for a statutory 12 week consultation period, from XX August to XX October 2015 via the Torbay Council

	<p>website and copies of the document were also made available for public inspection during that time, at the Council's 'Connections' offices and at the public libraries located in Torquay, Paignton and Brixham.</p> <p>A list of those persons consulted is provided in Appendix 1 to this 'Statement of Principles 2016'</p>
2.4	<p>This 'Statement of Principles 2016' was approved at a meeting of the Full Council on XX December 2016 and was published via the Torbay Council website thereafter. Copies were also made available for public inspection at public libraries and at the Council's 'Connections' offices, located in Torquay, Paignton and Brixham upon publication.</p>
2.5	<p>It should be noted that this 'Statement of Principles 2016' will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and in accordance with the statutory requirements of the Gambling Act 2005.</p>
3	<p>DECLARATION</p>
3.1	<p>In producing this 'Statement of Principles 2016', Torbay Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the current version of the 'Guidance to Licensing Authorities' issued by the Gambling Commission, any responses received from those who were consulted on the 'Draft Statement of Principles 2016' and any representations submitted by any interested party, person, body or organisation in response to the publication of the 'Draft Statement of Principles 2016'.</p>
4	<p>INTERESTED PARTIES</p>
4.1	<p>'Interested Parties' can make representations to the Licensing Authority, in respect of an application for a 'Premises Licence', or in respect of an application for a 'Provisional Statement', submitted to the Licensing Authority by an applicant, under the Gambling Act 2005.</p>
4.2	<p>Interested parties can also initiate, (or make representation in respect of), a review of a premises licence, the detail of which is outlined at Section 28 of this 'Statement of Principles' on Page 28, under the heading of 'Reviews'.</p>
4.3	<p>The Act states that a person is an 'Interested Party', if in the opinion of the Licensing Authority, that person:</p> <ul style="list-style-type: none"> a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities; b) Has business interests that might be affected by the authorised activities, or c) Represents persons who satisfy the criteria at paragraph a) or b). <p>These persons include trade associations, trade unions, and residents' and tenants' associations. However, the Licensing Authority will not generally view these bodies as interested parties, unless they have a member who satisfies the criteria in paragraphs a) or b) above; and they have written authority of representation.</p>
4.4	<p>'Interested Parties' can be persons who are democratically elected, such as Councillors, (including Town Councillors), and Members of Parliament. In such circumstances, no specific evidence of being 'asked' to represent an interested person will be required,</p>

	provided the relevant Elected Member represents the Ward or Town likely to be affected.
4.5	In respect of any application for the grant of a small casino premises licence the Act provides that at Stage 1 of the consideration procedure, each competing applicant is an <i>'Interested Party'</i> in relation to each of the other competing applications.
4.6	<p>The Licensing Authority will apply the following principles in determining whether a person or body is an interested party for the purposes of the Act:</p> <ul style="list-style-type: none"> a) Each case will be decided upon its own merits subject to the licensing objectives and to any requirements imposed by the Gambling Act 2005. b) The Licensing Authority will not apply a rigid rule to its decision making. <p>The Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the status and interpretation of 'Interested Parties'.</p>
4.7	<p>In respect of any representation made by an interested party, the Licensing Authority will make a determination as to whether or not the representation is relevant.</p> <p>The following are examples of grounds which may be considered by the Licensing Authority, to be irrelevant, (<i>this list is indicative only and is not exhaustive</i>):</p> <ul style="list-style-type: none"> a) Representations which are inconsistent with Section 153 of the Act. b) Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this 'Statement of Principles'. c) Representations which relate to the objection to gambling activity generally; for instance on moral grounds. d) Representations in relation to the demand or unmet demand for gambling premises. e) Representations in relation to planning matters. f) Public Safety Issues. g) Traffic Congestion issues.
4.8	<p>The Licensing Authority may disregard a representation which it considers to be:</p> <ul style="list-style-type: none"> a) Frivolous b) Vexatious c) Insignificant; to such an extent, that it would be wholly unreasonable for the Licensing Authority to refuse the grant of the licence, or remove / attach conditions to the licence, on the basis of such representation or will certainly not influence the Licensing Authority's determination of the application.
5	EXCHANGE OF INFORMATION
5.1	In respect of the exchange of information between the Licensing Authority and the Gambling Commission under Sections 29 and 30 of the Gambling Act 2005, and the exchange of information under Section 350 of the Act with other persons listed in Schedule 6 of the Act, the Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 and the Data Protection Act 1988.
5.2	The Licensing Authority will have regard to any guidance issued by the Secretary of State

	on this matter. Should any protocols be established as regards the exchange of information with other bodies, then they will be made available.
6	ENFORCEMENT
6.1	<p>In discharging its responsibilities under the Act with regard to inspection and enforcement regimes, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and Torbay Council's 'Enforcement and Prosecution Policy' and will endeavour to be:</p> <ul style="list-style-type: none"> a) Proportionate: the Licensing Authority will only intervene when it is deemed necessary and remedies will be appropriate to the risk posed; costs will be identified and minimised. b) Accountable: the Licensing Authority will ensure that it can justify decisions and will provide facilities for the public scrutiny of decisions taken. c) Consistent: the Licensing Authority will ensure that rules and standards are 'joined up' and implemented fairly. d) Transparent: the Licensing Authority will be open and will endeavour to keep regulations simple and user friendly. e) Targeted: the Licensing Authority will endeavour to focus on the problem, minimise side effects and avoid duplication with other regulatory regimes.
6.2	<p>The Licensing Authority has adopted and implemented a risk-based / intelligence led inspection programme, based on;</p> <ul style="list-style-type: none"> a) The licensing objectives. b) Relevant codes of practice. c) Guidance issued by the Gambling Commission. d) The principles set out in this 'Statement of Principles'. e) Regulators Code. f) Departmental and Partner Agency intelligence.
7	LICENSING AUTHORITY FUNCTIONS
7.1	<p>The Licensing Authority have a duty under the Gambling Act 2005 to:</p> <ul style="list-style-type: none"> a) Issue '<i>Premises Licences</i>' where gambling activities are to take place. b) Issue '<i>Provisional Statements</i>' where gambling activities may take place. c) Regulate '<i>Members' Clubs</i>' that wish to undertake certain regulated gaming activities via issuing '<i>Club Gaming Permits</i>' or '<i>Club Machine Permits</i>'. d) Issue '<i>Club Machine Permits</i>' to '<i>Commercial Clubs</i>'. e) Grant 'Permits' for the use of certain lower stake gaming machines at '<i>Unlicensed Family Entertainment Centres</i>'. f) Receive '<i>Notifications</i>' from premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), for the use of up to two gaming machines on the premises.

	<ul style="list-style-type: none"> g) Grant '<i>Licensed Premises Gaming Machine Permits</i>' for premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), where there are more than two machines on the premises. h) Register '<i>Small Society Lotteries</i>' below prescribed thresholds. i) Issue '<i>Prize Gaming Permits</i>'. j) Receive and endorse '<i>Temporary Use Notices</i>' k) Receive '<i>Occasional Use Notices</i>'. l) Provide information to the Gambling Commission; m) Maintain registers of the permits and licences issued.
	PART B ~ PREMISES LICENCES
8	GENERAL PRINCIPLES
8.1	In exercising its functions under the Act in relation to premises licences, the Licensing Authority will have regard to the provisions of the Act, Regulations drafted under the Act, the mandatory and default conditions and any guidance or codes of practice issued by the Gambling Commission.
8.2	<p>The Licensing Authority may:</p> <ul style="list-style-type: none"> a) Exclude default conditions from the premises licence if it does not adversely affect the licensing objectives. b) Attach additional licence conditions, if it is deemed necessary to do so to promote the licensing objectives.
9	GUIDING PRINCIPLES
9.1	The Licensing Authority will treat each licensing objective with equal importance.
9.2	The Licensing Authority will have regard to its responsibilities under Section 17 of the Crime and Disorder Act 1998 and within the strategic aims of the Community Safety Partnership Strategic Assessment 2014/15 , to do all that is reasonable to prevent crime and disorder in Torbay.
9.3	The Licensing Authority will have regard to its responsibilities under the European Convention on Human Rights, set out by the Human Rights Act 1998, and its statutory role as a Local Authority to fulfil the duties and responsibilities vested in it.
9.4	The Licensing Authority will have regard to its responsibilities under the Equalities Act 2010.
9.5	Torbay Council's Constitution states that the Licensing Committee shall be comprised of 15 Elected Members of the Council; with a quorum of 5, and the Licensing Sub Committee shall be comprised of 3 Elected Members of the Council; with a quorum of 3.
9.6	The Chair of Torbay Council's Licensing Committee will be elected at the annual meeting

	of the Council.
9.7	Torbay Council will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with Torbay Council's constitution. No Member of Torbay Council shall sit upon the Licensing Committee or Sub-Committee unless they have received appropriate training.
9.8	The Licensing Authority considers that effective licensing can only be achieved by recognising the value of all contributors and will work in partnership with the Police and other statutory services, local businesses, local people, professionals involved in child protection and all others who can contribute positively, to the successful promotion of the three licensing objectives.
9.9	Torbay Council considers that the decisions of the Licensing Authority can be a key factor of the Council effectively discharging its duties under the Section 17 of the Crime and Disorder Act 1998. Whilst the Licensing Authority will not use licensing conditions to control anti social behaviour by patrons once they are away from licensed premises, licensees will be expected to demonstrate that they have taken appropriate action to minimise the potential impact of that behaviour, within the general vicinity of the licensed premises.
9.10	<p>The Licensing Authority will ensure that any conditions attached to a licence will relate to matters within:</p> <ul style="list-style-type: none"> a) The control of the licensee, or, b) The control of other persons who may have relevant licences or authorisations, in respect of the subject premises, or adjacent premises. <p>In determining any such conditions the Licensing Authority will have regard to the Act, any guidance or codes of practice issued by the Gambling Commission and this 'Statement of Principles'.</p>
9.11	Persons under 18 years of age will be restricted from entering gambling premises in accordance with the requirements of the Gambling Act 2005, any relevant Codes of Practice and any guidance issued by the Gambling Commission. The Licensing Authority may attach conditions to a premises licence to ensure that persons under 18 years of age are not permitted access to the premises, if it is considered appropriate to do so.
9.12	The Licensing Authority will have regard to any relevant published information, especially with regard to gambling addiction in children and vulnerable persons, in discharging its function with regard to premises licences and permits.
9.13	The Licensing Authority considers that the licensing process, insofar as it may seek to protect children from harm and exploitation, includes protection from moral, psychological and physical harm.
9.14	Torbay Council will ensure that decisions made in relation to planning and building control legislation will be made independently of those made in respect of the Gambling Act 2005. The Licensing Authority will not have regard to the likelihood of obtain consents under planning or building legislation in considering any application for a premises licence, made under the Gambling Act 2005.
9.15	The Licensing Committee will receive reports, compiled six-monthly, on decisions made by Officers under the provisions of the scheme of delegation.

9.16	The Licensing Authority will, where relevant to its functions under the Gambling Act 2005, have regard to and promote Torbay Council's Economic Strategy 2013-2018, which forms part of the Council's Policy Framework.
9.17	Section 156 of the Act requires licensing authorities to maintain a register of the premises licences that it has issued. The register must be made available, at any reasonable time, to the public who may request copies of the entries. The Council achieves this requirement through the use of an online register which is accessible via the Council's website.
10	DECISION MAKING PROCESS
10.1	In making decisions about premises licences the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks it is: <ul style="list-style-type: none"> a) In accordance with any relevant code of practice issued by the Gambling Commission. b) In accordance with any relevant guidance issued by the Gambling Commission. c) Reasonably consistent with the licensing objectives (subject to the above). d) In accordance with the Council's 'Statement of Principles' (subject to the above).
10.2	In determining a premises licence application, the Licensing Authority shall not have regard to any objections which are deemed to be raised on moral grounds, nor will it be concerned with matters of sufficiency of, or unmet demand for, gambling facilities.
11	DEFINITION OF PREMISES
11.1	In deciding if parts of a given building constitute premises in their own right, the Licensing Authority will have due regard to the definition of 'premises' within the Act, any guidance issued by the Gambling Commission and any decisions handed down by the Courts.
11.2	The Act allows for a single building to be subject to more than one premises licence, provided those premises licences are for different parts of the building, and the different parts of the building can reasonably be regarded as being 'different premises'. This provision exists to allow large multiple unit premises, such as a pleasure park, pier, track or shopping mall, to obtain separate premises licences. But this does not mean that a premises cannot be the subject of a separate licence for example the basement and ground floor, if they are configured to a standard approved by the Licensing Authority. The Licensing Authority does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
11.3	The Licensing Authority will pay particular attention to premises licence applications, where access to the proposed licensed premises, can only be made by passing through other premises; being other premises which may or may not have the benefit of licences in their own right.
11.4	The Licensing Authority will also take particular care in considering applications for multiple licences for a building and / or those relating to a separate part of a building used for other (non-gambling) purposes. In particular, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable, so that the separation of different premises is not compromised and that people do not 'drift' into a

	gambling area.
11.5	<p>Where access to the proposed licensed premises cannot be made directly from the public highway the Licensing Authority will consider specific issues before granting such applications, for example:</p> <ol style="list-style-type: none"> a) The general access arrangements of the premises. b) The structural integrity and nature of any premises separation. c) Whether persons under 18 years of age can gain access to or have sightlines into the premises. d) The compatibility of adjacent establishments. e) Supervision and monitoring systems. f) The nature and legitimacy of any unlicensed areas providing separation of licensed premises. g) The overall ability to comply with the requirements of the Act.
12	PROVISIONAL STATEMENTS ~ PREMISES NOT YET READY FOR GAMBLING
12.1	<p>Where there is an intention on the part of an applicant, to provide gambling facilities at premises:</p> <ol style="list-style-type: none"> a) which they expect to be constructed, or b) which they expect to be altered, or c) for which they do not yet have the right to occupy the premises', <p>then an application may be made to the Licensing Authority for a 'Provisional Statement'.</p>
12.2	The Licensing Authority will issue 'Provisional Statements' in accordance with the provisions of the Act, any guidance or codes of practice issued by the Gambling Commission and the principles contained within this 'Statement of Principles'.
12.3	<p>'Interested Parties' and 'Responsible Authorities' can make representations to the Licensing Authority, in respect of an application for a 'Provisional Statement' in accordance with the procedures outlined at Section 4 of this 'Statement of Principles'. Following the grant of a 'Provisional Statement', no further representations from Relevant Authorities or Interested Parties can be taken into account unless:</p> <ol style="list-style-type: none"> a) The representations concern matters which could not have been addressed at the 'Provisional Statement' stage. b) The representations reflect a change in the applicant's circumstances.
12.4	<p>The Licensing Authority may refuse the grant of a Premises Licence, or grant the licence on terms different to those which may have been attached to the 'Provisional Statement', only by reference to matters which:</p> <ol style="list-style-type: none"> a) Could not have been raised by objectors at the 'Provisional Statement' stage b) In the Licensing Authority's considered opinion, reflect a material change in the operator's circumstances.
13	PREMISES LOCATION

13.1	The Licensing Authority must be satisfied that the potential location of a premises intended for gambling is suitable for the purposes of the required gambling activity. In considering matters of location the Licensing Authority will have particular regard to the licensing objectives.
13.2	From 6 th April 2016 Operators with Premises Licences must undertake local risk assessment to evaluate the suitability of the location of the licensed premises. This assessment must be submitted to the Licensing Authority as part of a new or a variation licence application.
13.3	The Licensing Authority expects the local risk assessment to have due regard to the proximity of the premises to locations used by children and young person's and/or vulnerable persons, as detailed in 13.4 below, and identify and record the risks that may arise from the proximity of those premises. The local risk assessment must identify the premises policies, procedures and control measures to mitigate those risks.
13.4	Therefore in determining whether a premises location is suitable for the grant of a licence, the Licensing Authority will have particular regard to the local risk assessment submitted in conjunction with the following: <ul style="list-style-type: none"> a) The proximity of the premises to any school, centre or establishment for the education, training or care of young persons and/or vulnerable persons. b) The proximity of the premises to leisure centres used for sporting and similar activities by young persons and/or vulnerable persons, c) The proximity of the premises to any youth club or similar establishment, and d) The proximity of the premises to community, welfare, health and similar establishments used specifically, or to a large extent, by young persons and/or vulnerable persons.
14 DUPLICATION WITH OTHER REGULATORY REGIMES	
14.1	The Licensing Authority will endeavour to avoid any duplication with other statutory and regulatory regimes in discharging its functions under the Act, unless the Licensing Authority believes such duplication is necessary for the promotion of, and compliance with, the licensing objectives.
14.2	In considering an application for a premises licence the Licensing Authority will not take into account matters which lie beyond the remit of the licensing objectives. Although this is not an exhaustive list, this would include issues such as: <ul style="list-style-type: none"> a) Whether the premises which is the subject of the licence application, is likely to be awarded planning permission or building consent. b) Whether the premises is safe for the intended use, (e.g. the structure, the means of escape, fire precaution provisions, etc). c) Whether the use of the premises under the licence may cause any public nuisance (e.g. to residents within the vicinity). <p>The above matters will be addressed by other regulatory regimes.</p>
15 LICENSING OBJECTIVES	

15.1	<p>The Licensing Authority will endeavour to ensure that any premises licences granted will be consistent with the licensing objectives.</p> <p>The Licensing Objectives are:</p> <ul style="list-style-type: none"> a) Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime. b) Ensuring that gambling is conducted in a fair and open way. c) Protecting children and the vulnerable from being harmed or exploited by gambling.
15.2	<p>Licensing Objective a): <i>Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime.</i></p> <p>The Gambling Commission will take a lead role in preventing gambling from becoming a source of crime. However, the Licensing Authority will endeavour to promote this objective in the delivery of its responsibilities. For instance, in considering applications for premises licences the Licensing Authority will have particular regard to the following:</p> <ul style="list-style-type: none"> a) Where an area has known high levels of organised crime the Licensing Authority will consider carefully whether gambling premises should be located in the proximity of that area. b) Whether additional licence conditions may be appropriate, such as the provision of Security Industry Authority, (SIA), registered door supervisors. c) Whether additional security measures should be installed at the premises, such as monitored CCTV. d) The likelihood of any violence or public order issues if the licence is granted. e) The design and layout of the premises. f) The training given to staff in crime prevention measures appropriate to those premises. g) Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system. h) If premises are to be subject to age restrictions; the procedures in place to conduct age verification checks. i) The premises local risk assessment.
15.3	<p>Licensing Objective b): <i>Ensuring that gambling is conducted in a fair and open way.</i></p> <p>The Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way, (as that is the remit of the Gambling Commission), unless the gambling facilities are being provided at a Track; see Section 25, Page 25.</p>
15.4	<p>Licensing Objective c): <i>Protecting children and the vulnerable from being harmed or exploited by gambling.</i></p> <p>This objective is concerned with protecting children from gambling, as well as restrictions upon advertising, to ensure that the commercial promotion of gambling is not targeted towards children, or portrayed as attractive to children. It is also concerned with protecting vulnerable people from being harmed or exploited by gambling. The Licensing Authority will therefore consider the local risk assessment and whether specific measures are required at particular premises, with regard to this licensing objective, which may include the supervision of entrances, the supervision of machines and the appropriate segregation of high risk areas, the provision of a 'chill out' room or area free from gambling and alcohol facilities.</p>
15.5	<p>In discharging its responsibilities with respect to this particular licensing objective, the Licensing Authority will have regard to the current 'Gambling Commission Codes of</p>

	Practice', insofar as they may apply to specific premises, such as casinos.
15.6	<p>The Act does not offer a definition with regard to the term, 'vulnerable persons', however the Gambling Commission states the following.</p> <p>For regulatory purposes the Commission will assume that this group includes:</p> <ol style="list-style-type: none"> People who gamble more than they want to. People who gamble beyond their means People who may not be able to make informed or balanced decisions about gambling, due to a mental impairment, alcohol, other relevant disability or drugs.
15.7	<p>The Torbay & Southern Devon Health & Care NHS Trust, (<i>Safeguarding Adults Section</i>), refers to a vulnerable adult as an Adult at Risk. The Care Act 2014 defines an adult at risk as someone who:-</p> <ul style="list-style-type: none"> Has needs for care and support (whether or not the local authority is meeting any of those needs) and; Is experiencing, or at risk of abuse or neglect; and As a result of those care needs is unable to protect themselves from the risk of, or the experience of abuse or neglect.
15.8	<p>Torbay Council defines a vulnerable person (or Adults at Risk) in the following terms:</p> <p>Persons aged 18 years and over who may be unable to independently care for themselves; speak out for themselves and/or protect themselves against abuse or exploitation, and may depend on other people or a service to support or care for them.</p>
15.9	<p>The Licensing Authority will have regard to the definitions of an Adult at Risk as provided by the Gambling Commission, by the Torbay Care Trust and Torbay Council, in discharging its responsibilities under the Act.</p> <p>Problem gambling, particularly with the young, can sometimes be an indication of other issues that are of concern to the Council, such as anti-social behaviour problems. When the Licensing Authority is made aware of issues associated with problem gambling and vulnerable people, the Licensing Authority will seek to work closely with the gambling premises operator, the Gambling Commission and other relevant sections of the Council, including the Children, Schools and Family Directorate and the Housing and Adult Social Care Directorate.</p>
16	LICENCE CONDITIONS
16.1	<p>Any conditions attached to licences will be proportionate and will be:</p> <ol style="list-style-type: none"> Relevant to the need to make the proposed building suitable as a gambling facility. Directly related to the premises (including the locality and any identified local risks) and the type of licence applied for. Fairly and proportionate related to the scale and type of premises. Reasonable in all other respects.
16.2	Decisions upon individual conditions will be made on a case by case basis, although there

	are a number of control measures that the Licensing Authority can utilise, such as the use of supervisors or the use of appropriate signage for adult only areas. The Licensing Authority will also expect the licence applicant to identify local risks and control measures ensuring the licensing objectives can be met effectively and promoted. For example, local issues associated with a high crime rate may put a premises at risk of not being consistent with the licensing objectives, and specific conditions may be necessary to address the risk.
16.3	<p>The Licensing Authority may require additional control measures in respect of buildings which are the subject of multiple premises licence applications, in order to ensure the promotion of the licensing objectives.</p> <p>Such requirements may relate to the supervision of entrances, the segregation of gambling areas from non-gambling areas which may be frequented by children and the supervision of gaming machines in non-adult gambling specific premises.</p> <p>The Licensing Authority will have regard to any guidance issued by the Gambling Commission in determining any such additional measures. The Licensing Authority will also expect the licence applicant to identify local risks and control measures through their local risk assessments, ensuring the licensing objectives can be met effectively and promoted.</p>
16.4	Where there are risks associated with a specific premises or class or premises, the licensing authority may consider it necessary to attach specific conditions to the licence to address those risks, taking account of the local circumstances.
16.5	<p>The Licensing Authority will ensure that, where category A to C machines are made available on premises to which children have access that:</p> <ol style="list-style-type: none"> a) All such machines are located in an area of the premises that is separated from the remainder of the premises by a physical barrier and which is effective to prevent access, other than through a designated entrance. b) Only adults have access to the area where these machines are located. c) Access to the area where the machines are located is adequately supervised. d) The area where these machines are located is arranged so that it can be observed by the staff or the licence holder. e) At the entrance to and inside any such areas notices are prominently displayed, indicating that access to the area is prohibited to persons under 18 years of age.
16.6	Tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. In discharging its functions in relation to Tracks, the Licensing Authority will consider the impact upon the licensing objective that refers to the 'protection of children'. The Licensing Authority will specifically require that the entrances to each part of premises are distinct and that children are effectively excluded from gambling areas where they are not permitted to enter.
17	ADULT GAMING CENTRES`
17.1	In respect of adult gaming centres the Licensing Authority will have specific regard to the licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the premises.

17.2	<p>The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the licensing objectives; however appropriate measures and/or licence conditions may cover issues such as: <i>(this list is indicative only and is not exhaustive)</i></p> <ul style="list-style-type: none"> a) Proof of age schemes. b) Closed Circuit Television Systems, (CCTV). c) Supervision of entrances and machine areas d) Physical separation of areas. e) Location of entry. f) Appropriate notices and signage. g) Specific opening hours. h) Self-exclusion schemes and the display of information regarding self-exclusion schemes. i) Provision of information leaflets and helpline numbers for organisations such as 'GamCare' <i>(please see Appendix 2 of this document for 'Gamcare' contact details).</i> j) Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section 13.4 above.
18	(LICENSED) FAMILY ENTERTAINMENT CENTRES
18.1	<p>In respect of (Licensed) Family Entertainment Centres, (<i>L FEC's</i>), the Licensing Authority will have specific regard to the licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the 'adult only' gaming machine areas on the premises.</p>
18.2	<p>The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the licensing objectives; however appropriate measures and/or licence conditions may cover issues such as: <i>(this list is indicative only and is not exhaustive)</i></p> <ul style="list-style-type: none"> a) Proof of age schemes. b) Closed Circuit Television Systems, (CCTV). c) Supervision of entrances and machine areas d) Physical separation of areas. e) Location of entry. f) Appropriate notices and signage. g) Specific opening hours. h) Self-exclusion schemes. i) Measures / training for staff on how to deal with suspected truant school children on the premises j) Provision of information leaflets and helpline numbers for organisations such as GamCare, <i>(please see Appendix 2 of this document for 'Gamcare' contact details).</i> k) Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section 13.4 above.
18.3	<p>In determining an application for a licensed family entertainment centre, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and any mandatory or default conditions deemed to have a positive effect. The Licensing Authority will have particular regard to any guidance or direction on how the separation and/or delineation of the 'adult only' machine areas of the premises should be achieved.</p>

19	SMALL CASINO PREMISES LICENCE OVERVIEW
19.1	The Gambling Act 2005 provided for an increase in the number of casino premises permitted to operate in the United Kingdom and established that two new types of casino should be permitted; eight large and eight small casinos. The Secretary of State for Culture, Media and Sport was given the authority under the Act to determine which licensing authorities should be permitted to grant new casino premises licences.
19.2	The Secretary of State established a ' <i>Casino Advisory Panel</i> ' to recommend the most appropriate areas of the UK in which to site the 16 new casino premises and invited interested Local Authorities to submit proposals to the Panel; Torbay Council submitted a proposal to the panel in response to this invitation.
19.3	On 15 th May 2008 the ' <i>Categories of Casino Regulation 2008</i> ' and the ' <i>Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008</i> ' were approved. The Order specified which Licensing Authorities could issue premises licences for both large and small casinos; Torbay Council's Licensing Authority was included in the Order and was authorised to issue one small casino premises licence.
19.4	<p>On 26th February 2008 the Secretary of State for Culture, Media and Sport issued the '<i>Code of Practice on Determinations Relating to Large and Small Casinos</i>' (herein referred to as the Code of Practice). The Licensing Authority must comply with the Code of Practice which states:</p> <ul style="list-style-type: none"> a) The procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005. b) Matters to which the Licensing Authority should have regard in making those determinations.
19.5	<p>Schedule 9 paragraph 5 to the Act states the following:</p> <ul style="list-style-type: none"> 1) This paragraph applies if a Licensing Authority determine under Paragraph 4 that they would grant a number of competing applications greater than the number which they can grant as a result of section 175 and the Order under it. 2) The Authority shall then determine which of those applications to grant under section 163(1)(a). 3) For that purpose the Authority - <ul style="list-style-type: none"> a) shall determine which of the competing applications would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area, b) may enter into a written agreement with an applicant, whether as to the provision of services in respect of the Authority's area or otherwise, c) may determine to attach conditions under section 169 to any licence issued so as to give effect to an agreement entered into under paragraph (b), and d) may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a).
19.6	<p>Torbay Council, as the Licensing Authority, is aware that there may be a number of operators who may wish to apply for the small casino premises licence from Torbay Council.</p> <p>The Council will therefore stage a statutory selection process, (<i>the 'small casino premises</i></p>

	<i>licence process</i> '), under Schedule 9 of the Gambling Act 2005 and will run the selection process in line with <i>'The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008'</i> and the said Code of Practice, issued by the Secretary of State.
19.7	In accordance with the above Regulations, Torbay Council's Licensing Authority will publish an invitation calling for applications for the 'small casino premises licence'.
19.8	Should the Licensing Authority receive more than one application for a small casino premises licence at Stage 1 of the 'small casino premises licence process' and should the Licensing Authority determine that it would grant more than one small casino premises licence, then subject to any and all appeals which may have been lodged at Stage 1 of the process being concluded, the Licensing Authority will: <ul style="list-style-type: none"> a) Make a 'Provisional Decision to Grant' in respect of those applicants deemed appropriate for the grant of a small casino premises licence. b) Implement Stage 2 of the 'small casino premises licence process'. c) Invite those applicants issued with a 'Provisional Decision to Grant' at Stage 1 of the 'small casino licence process', to participate in Stage 2 of the 'small casino premises licence process'.
19.9	Any 'Provisional Decision to Grant' issued to an applicant at Stage 1 of the 'small casino premises licence process', shall have no effect and shall not be used for the provision of casino gaming facilities upon the premises to which it relates. The 'Provisional Decision to Grant' merely confirms the Licensing Authority's determination, that the applicant satisfies the statutory requirements for the grant of a small casino premises licence; and afford the applicant the right to participate in Stage 2 of the 'small casino premises licence process' for Torbay.
19.10	It may be the case that at Stage 1 of the process, only one application may be submitted to the Licensing Authority for a small casino premises licence, or it may be the case that after due consideration of all the applications at Stage 1, the Licensing Authority considers that only one applicant satisfies the statutory requirements, in respect of a premises licence. In that instance, the Licensing Authority will not implement Stage 2 of the 'small casino licensing process' and will, (subject to any and all appeals being concluded), grant a small casino premises licence to the 'only suitable applicant' determined under Stage 1 of the process.
19.11	If the Licensing Authority does not receive any applications for a small casino premises licence at Stage 1 of the 'small casino premises licence process', or should the Licensing Authority resolve to refuse the grant of any applications so made under Stage 1, then subject to any and all appeals being concluded: <ul style="list-style-type: none"> a) Stage 2 of the 'small casino premises licence process' will not be implemented, and, b) The Licensing Authority may re-publish an invitation calling for applications for a 'small casino premises licence'.
19.12	Section 166(1) of the Act states that a Licensing Authority may resolve not to issue a premises licence. A decision to pass such a resolution will be taken by the Authority by a whole and will not be delegated to the Licensing Committee (a resolution not to issue casino premises licences will only affect new casinos). In passing such a resolution the Authority may take into account any principle or matter, not just the licensing objectives. The Authority may revoke the resolution by passing a counter resolution.

20	SMALL CASINO PREMISES LICENCE ~ GENERAL PRINCIPLES
20.1	The Licensing Authority recognises that applicants may either apply for a 'Casino Premises Licence' or alternatively a 'Provisional Statement' in respect of the small casino premises licence.
20.2	Unless otherwise specified, any reference to the application and procedures for a 'Small Casino Premises Licence' in the 'Small Casino Premises Licence' sections of this 'Statement of Principles' shall also include the application and procedures for a 'Provisional Statement' for a small casino premises licence.
20.3	<p>In making any decision under Stage 1 or Stage 2 of the 'small casino premises licence process', the Licensing Authority will have due regard to this 'Statement of Principles', the Gambling Act 2005 and to any Codes of Practice, Regulations and Guidance which may be issued by:</p> <ul style="list-style-type: none"> a) The Secretary of State. b) The Department for Culture, Media and Sport, (<i>DCMS</i>). c) The Gambling Commission.
20.4	<p>In making any decision in respect of a small casino premises licence application, made under the 'small casino premises licence process':</p> <ul style="list-style-type: none"> a) the Licensing Authority shall not take into account whether or not an applicant is likely to be granted planning permission or building regulations approval; and b) any decision taken in relation to the small casino premises licence application, shall not constrain any later decision by Torbay Council, under the law relating to planning or building control; and c) any conditions or agreements attached to any planning consents will normally fall outside of the licensing process and will normally be disregarded by the Licensing Authority, in determining which applicant will bring the greatest benefit to the area of Torbay.
20.5	The Licensing Authority cannot consider unmet demand when considering applications for a small casino premises licence.
20.6	Torbay Council does not have a preferred location for the new small casino. Applicants can submit plans for any site or location within Torbay and each which will be judged on its own individual merits. Applicants, however, should have regard to the proposed location of the premises, with regard to meeting that licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling.
20.7	Where more than one 'Provisional Decision to Grant' is issued in accordance with Section 19.8 above, the Licensing Authority will implement Stage 2 of the 'small casino premises licence process'.
20.8	The Licensing Authority will ensure that any pre-existing contract, arrangements or other relationship it may have with a company or individual, does not affect the procedure so as to make it unfair (or appear unfair) to any applicant.
21	SMALL CASINO PREMISES LICENCE APPLICATION ~ STAGE 1

21.1	The 'small casino premises licence process' will be started by the Licensing Authority publishing an invitation calling for applicants to submit an application for a small casino premises licence.
21.2	An application for a small casino premises licence may be made at any time, however the Licensing Authority will not consider any such application, until a formal invitation to apply has been published and the appointed closing date for the submission of applications has passed. The appointed closing date shall be the final day of the three month period, duly advertised for Stage 1 applications.
21.3	The Licensing Authority will provide an Application Pack that will include a statement of the procedure and process it proposes to follow, in assessing applications for a small casino premises licence.
21.4	All applications for a small casino premises licence will be received through Stage 1 of the 'small casino premises licence process'. Should the Licensing Authority receive more than one application, then each application will be considered separately and on its own merits, with no reference being made to the other applications received.
21.5	At Stage 1 of the 'small casino premises licence process' any additional information submitted by an applicant, above that required by the statutory process, will be disregarded and returned to the applicant in accordance with Gambling Act 2005 and its Regulations. Additional information may be submitted by an applicant participating in Stage 2 of the 'small casino premises licence process'.
21.6	The Licensing Authority recognises that, should there be more than one small casino premises licence applicant, then each applicant is an 'Interested Party' in relation to the other, and therefore may make a representation. The term 'Interested Party' is defined in Section 4 at Page 6, of this 'Statement of Principles' and all representations will be considered carefully to ensure they meet the requirements set out therein.
21.7	It is recognised that any decision taken by the Licensing Authority under Stage 1 of the 'small casino licence application process' may be the subject of an appeal. The Licensing Authority will not proceed to Stage 2 of the 'small casino premises licence process' until any and all appeals, which may have been lodged at Stage 1 of the process, have been concluded.
22	SMALL CASINO PREMISES LICENCE APPLICATION ~ STAGE 2
22.1	Stage 2 of the 'small casino premises licence process' cannot be commenced until Stage 1 has been completed and all applications determined, including the conclusion of any and all appeals.
22.2	At Stage 2 of the 'small casino premises licence process', each of the second stage applicants will be required to state and demonstrate the greatest benefit they can bring to the local area of Torbay and how this will contribute to the well being of the area.
22.3	Where more than one application is received for a small casino premises licence and where more than one application is the subject of a 'Provisional Decision to Grant', (in accordance with Section 19.8 at Page 18), the Licensing Authority will give due consideration to all applications and will grant the available licence, to the applicant that it considers will deliver the greatest benefit to the area of Torbay.
22.4	Any determination made under Stage 2 of the 'small casino premises licence process' will be judged on a wide range of criteria, which have been established by the Licensing Authority in consultation with the community of Torbay, under the terms of this 'Statement of Principles'.

22.5	The Licensing Authority may during Stage 2 of the 'small casino premises licence process' engage in discussions with each Stage 2 applicant, with a view to the application being refined, supplemented or otherwise altered so as to maximise the benefits to the area of Torbay.
22.6	The Licensing Authority will expect a Stage 2 applicant to sign a written agreement with Torbay Council relating to the benefits that the proposed development may bring to the area of Torbay. The Licensing Authority will take any such agreement into account, in determining which application would result in the greatest benefit to the area of Torbay. The Licensing Authority may attach conditions to the small casino premises licence to give effect to this agreement.
22.7	<p>The following are the principles which will be used by the Licensing Authority to judge which proposal is likely to result in the greatest benefit to the area of Torbay and therefore, these are the matters to which applicants will be expected to address their Stage 2 application:</p> <ul style="list-style-type: none"> a) How the proposals will directly assist with local economic benefit and regeneration, sustainable job creation, enhance existing tourism, training and youth unemployment; especially with regard to non-gambling related jobs. b) How the proposal will deal with health and social responsibility, linking with local health care providers, including problem / fair gambling, protection of children and vulnerable persons; whether in the casino or in the wider community. c) How the proposals will link with Torbay Council's Cumulative Impact Policy. d) The provision that is made within the application for preventing gambling from becoming a source of crime and disorder, being associated with crime and disorder or being associated with crime and disorder. e) The proposed location of the small casino premises development and other facilities, and how the selected site(s) along with the design and architecture, will regenerate the surrounding area as well as meeting the highest energy and environmental standards. f) How the proposal will improve the environment with improved public realm, tackling poor buildings or the provision of new or repairing existing infrastructure, as well as enhancing the local environmental quality in the immediate vicinity of the development and on arterial routes to the venue. g) The provision of a marketing policy which explains how the development will promote Torbay, in line with Torbay Council's strategy to improve the quality and image of the area to increase visitor numbers and visitor spend. h) Proposed contributions towards community schemes, such as improving the night-time economy, the local community, the voluntary sector and youth facilities. i) Proposed contributions towards all year round arts and culture provision and recreational facilities for visitors and residents. j) How the proposals will assess the social, economic and physical impact of the development and the commitment thereafter to mitigate any potential adverse effects k) Proposals regarding day/night access and travel arrangements to and from the small casino taking into consideration staff and customer travel requirements. l) A financial contribution will accompany the application; what will be the purpose of the contribution and the form that this contribution will take.
22.8	At paragraph 22.7 above the Licensing Authority has set out matters which it will take into account in judging the competing applications at Stage 2 of the 'small casino premises licence process' and which are likely to receive the greatest weight in the evaluation process, but an operator is not debarred from putting forward other benefits which the Licensing Authority will take into consideration and weigh to the extent it considers them

	relevant.
22.9	<p>The Stage 2 applicant will be expected to additionally submit the following:</p> <p>a) A clear and detailed Business Plan.</p> <p><i>The Licensing Authority will evaluate the Business Plan, especially with regard to the viability of any submitted proposals.</i></p> <p>b) A signed 'Development Agreement' in a form that is acceptable to the Licensing Authority, committing the applicant, (in the event that they are granted a licence), to the entirety of the scheme they have put forward.</p> <p>c) A timescale for implementation and completion of the proposed development works, (including any ancillary development), setting out the various stages of construction. This is to enable the Licensing Authority to be kept informed of when the project is likely to be completed and that the applicant is on target for final completion.</p> <p>d) Evidence that there will be consultation with Statutory Bodies and Responsible Authorities, to ensure due compliance with any and all Statutory Regulations and Legislation, during the construction of the development; (e.g. health and safety, highway approvals, etc).</p>
22.10	In assessing applications made under the 'small casino premises licence process' the Licensing Authority will give consideration to the likelihood of a casino actually being developed and additional weight shall be given to its deliverability.
22.11	<p>The 'small casino premises licence process' will follow the DCMS Code of Practice; however, the Code of Practice leaves individual authorities to determine the detail of their own procedure.</p> <p>Therefore, (because it is recognised that the Licensing Authority does not necessarily have all the relevant expertise), the Licensing Authority might need to seek advice on an applicant's proposal from Officers in other relevant Council Departments; for example Planning, Highways, Finance, Regeneration and Legal. The Licensing Authority may also need to solicit independent expertise and advice from sources outside of the Council.</p> <p>For this purpose, the Licensing Authority intends to constitute a non-statutory panel to assist in the evaluation of the Stage 2 application process. This panel shall be called the 'Advisory Panel'.</p>
22.12	It is accepted that only the Licensing Authority will make the final decision on the successful applicant. The function of the Advisory Panel will be to evaluate the applications for the benefit of the Licensing Committee or Sub-Committee. The Advisory Panel will not be a decision-making body and while the Licensing Committee or Sub-Committee will take the Advisory Panel's evaluations into account, with regard to the 'small casino premises licence process', it is not bound to follow them.
22.13	Members of the Advisory Panel will comprise of carefully selected, competent and suitably qualified individuals, who are not biased and whose personal interests would not compromise their independence. It will be for the Local Authority to determine the membership of the Advisory Panel.
22.14	A schedule detailing the Advisory Panel members and the Panel's terms of reference will be included in the Application Pack. The terms of reference will include further details of the functions of the Advisory Panel and the procedures of the evaluation process, in order to ensure fairness and transparency to all applicants.

22.15	<p>To ensure that there is fairness and transparency; applicants will be asked if they wish to object to any Member of the Advisory Panel. Should an applicant wish to raise any objection to a Member of the Advisory Panel; then:</p> <ol style="list-style-type: none"> a) A formal objection must be served upon the Local Authority within 10 working days of the applicant requesting an Application Pack. b) The objection must clearly indicate the grounds upon which the objection is being made. c) It will be for the Local Authority to determine the validity of any objection and to determine if any member of the Advisory Panel should be replaced on the basis of the objection(s) raised. d) The formal procedure to be followed in the event of any objection being raised will be detailed within the 'Application Pack' <p><i>(The strict time constraints detailed at section a) above, are to ensure that in the event of an Advisory Panel Member being replaced as a result of an applicants' objection, all applicants can be given due notice and opportunity to object to any 'Replacement' Advisory Panel Member(s); and to prevent the potential frustration of the procedure in the latter stages of the 'small casino premises licence' determination process. Objections raised 'out of time' will only be considered if the applicant can satisfy the Local Authority, that the objection could not reasonably have been made within the stipulated period for objections).</i></p>
22.16	<p>It is important that the small casino premises licence application includes all documents and paperwork in support of the proposals, (hereinafter referred to as the 'bid documentation'). Once all the bid documentation has been submitted, the Advisory Panel will carry out a preliminary evaluation of each application. Following the preliminary evaluation, Officers of Torbay Council may liaise with applicants with a view to the application being refined, supplemented or altered so as to maximise the greatest benefit to the Torbay area.</p>
22.17	<p>Once the bid documentation is finalised, the Advisory Panel will evaluate each bid and the bids will be scored within definitive bands determined by the Local Authority. Once assessed, the Advisory Panel's draft evaluation report on each application will be sent to the applicant, in order to enable the relevant applicant to identify and address any factual errors that may have occurred. Thereafter no additional information may be submitted by the applicant, but any agreed factual errors will be amended.</p>
22.18	<p>The unsuccessful applicant(s) will be informed of the result and reasons for rejection as soon as is reasonably practicable.</p>
23	<p>BINGO PREMISES LICENCE</p>
23.1	<p>The Licensing Authority considers that if persons under 18 years of age are allowed to enter premises licensed for bingo, it is important that they do not participate in gambling, other than on category D machines. Where category C or above machines are available on premises to which persons under 18 years of age have access, the Licensing Authority will require that:</p> <ol style="list-style-type: none"> a) All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier, which is effective to prevent access other than through a designated entrance. b) Only adults are admitted to the area where the machines are located. c) Access to the area where the machines are located is adequately supervised. d) The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder.

	e) At the entrance to and inside any such area there are notices prominently displayed, indicating that access to the area is prohibited to persons under 18.
23.2	<p>The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the licensing objectives; however appropriate measures and/or licence conditions may cover issues such as: <i>(this list is indicative only and is not exhaustive)</i></p> <ul style="list-style-type: none"> a) Proof of age schemes. b) Closed Circuit Television Systems, (CCTV). c) Supervision of entrances and machine areas d) Physical separation of areas. e) Location of entry. f) Appropriate notices and signage. g) Specific opening hours. h) Self-exclusion schemes. i) Measures / training for staff on how to deal with suspected truant school children on the premises j) Provision of information leaflets and helpline numbers for organisations such as GamCare, <i>(please see Appendix 2 of this document for ‘Gamcare’ contact details)</i>. k) Identify local risks, such as proximity to schools or in an area high crime rate as identified in section 13.4 above.
23.3	In determining any application for a Bingo Premises Licence, the Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the suitability and general layout of Bingo premises and with regard to matters of primary gambling activity.
24	BETTING PREMISES LICENCE
24.1	The Licensing Authority is responsible for the issue of premises licences for all betting establishments, including casinos, bookmaker’s offices and tracks. It is illegal for persons under 18 years of age to enter upon licensed betting premises and bet, but they may gain entry to tracks.
24.2	<p>The Licensing Authority has an express authority to limit the number of betting machines made available upon licensed betting premises and in determining whether or not to limit the number of machines, the Licensing Authority will have regard to the following:</p> <ul style="list-style-type: none"> a) The size of the premises. b) The number of counter positions available for person-to-person transactions. c) The ability of staff to monitor the use of the machines by persons under 18 years of age or vulnerable persons.
24.3	<p>The Licensing Authority expects applicants to offer their own measures and must be included in the local risk assessment to meet the licensing objectives; however appropriate measures and/or licence conditions may cover issues such as: <i>(this list is indicative only and is not exhaustive)</i></p> <ul style="list-style-type: none"> a) Proof of age schemes. b) Closed Circuit Television Systems, (CCTV). c) Supervision of entrances and machine areas d) Physical separation of areas. e) Location of entry.

	<ul style="list-style-type: none"> f) Appropriate notices and signage. g) Specific opening hours. h) Self-exclusion schemes. i) Measures / training for staff on how to deal with suspected truant school children on the premises j) Provision of information leaflets and helpline numbers for organisations such as GamCare, (please see Appendix 2 of this document for 'Gamcare' contact details). k) Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section 13.4 above.
24.4	In determining any application for a Betting Premises Licence, the Licensing Authority will have regard to any guidance or codes of practice issued by the Gambling Commission concerning primary gambling activity.
25	TRACK PREMISES LICENCE
25.1	<p>General:</p> <p>Tracks are sites, (including horse racecourses and dog tracks), where races or other sporting events take place. Betting is a primary gambling activity on tracks, both in the form of pool betting, (often known as the 'Totalisator' or 'Tote'), and also general betting, often known as 'Fixed-Odds' betting. In discharging its functions with regard to Track Betting Licences the Licensing Authority will have regard to any guidance issued by the Gambling Commission in that respect.</p>
25.2	There is no special class of betting premises licence for a Track, but the Act does contain rules which apply specifically to a 'Premises Licence' granted in respect of a Track.
25.3	<p>Applicants for a Premises Licence made in relation to a Track, will not be required to hold an Operating Licence issued by the Gambling Commission, unless the applicant intends to offer pool betting or general betting facilities himself; in which case an Operating Licence will be required.</p> <p>The betting that is provided upon the track will not generally be provided by the applicant, but will be provided by other operators who attend the track to provide betting facilities. These 'On-Course Operators' will require the necessary operating licences, therefore the Act allows the track operator to obtain a Premises Licence without the requirement to hold an Operating Licence. This 'Track Premises Licence' then authorises anyone upon the premises to offer betting facilities, provided they already hold a valid Operators Licence.</p>
25.4	<p>The Licensing Authority is aware that tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. The Licensing Authority will especially consider the impact of the licensing objective of the protection of children and vulnerable persons with regard to this category of licence. Specific considerations in this respect may include:</p> <ul style="list-style-type: none"> a) The need to ensure entrances to each type of premises are distinct. b) That children are excluded from gambling or betting areas that they are not permitted to enter.
25.5	The Licensing Authority will expect the premises licence applicant(s) to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
25.6	Children are legally permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented

	from entering areas where gaming machines, (other than category D machines), are provided.
25.7	<p>Appropriate measures and / or licence conditions which may be applied to a track premises licence by the Licensing Authority, in order to promote the licensing objectives, (particularly the objective with regard to children and vulnerable persons), may include:</p> <p><i>(This list is indicative; it is not mandatory or exhaustive)</i></p> <ul style="list-style-type: none"> a) Proof of age schemes b) CCTV c) Door supervisors d) Supervision of entrances/machine areas e) Physical separation of areas f) Location of entry g) Notices / signage h) Specific opening hours i) Self-barring schemes j) Provision of information leaflets / helpline numbers for organisations such as GamCare, <i>(please see Appendix 2 of this document for ‘Gamcare’ contact details).</i> k) Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section 13.4 above.
25.8	<p>Gaming Machines at Tracks</p> <p>Applicants for Track Premises Licences will need to demonstrate within their applications, that where the applicant holds a ‘Pool Betting Operating Licence’ and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded and that such areas are suitably operated.</p>
25.9	<p>Betting Machines at Tracks</p> <p>The Licensing Authority has an express power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching licence conditions to a betting premises licence.</p>
25.10	<p>The potential space available for betting machines at a track may be considerable, bringing with it significant problems in relation to:</p> <ul style="list-style-type: none"> a) The proliferation of such machines. b) The ability of track staff to supervise the machines if they are dispersed around the track. c) The ability of the track operator to comply with the law and prevent children betting on the machines.
25.11	<p>In considering whether or not it is appropriate to restrict the number of betting machines made available at a track, by way of licence condition, the Licensing Authority will have regard to the following:</p> <ul style="list-style-type: none"> a) The size of the premises. b) The ability of staff to monitor the use of the machines by children or by vulnerable people. c) The number, nature, location and circumstances of the betting machines that an operator intends to make available for use.

25.12	<p>Conditions on Rules being Displayed at Tracks</p> <p>The Licensing Authority will attach a condition to Track Premises Licence requiring the track operator to ensure that the rules are prominently displayed in, (or near), the betting areas, or made available to the public by some other means, such as being included in the race-card or issued as leaflet.</p>
25.13	<p>Applications and Plans for Tracks</p> <p>The following information should be submitted with the application:</p> <ol style="list-style-type: none"> a) Detailed plans for the track and the area that will be used for temporary “on-course” betting facilities (often known as the “Betting Ring”). b) In the case of dog tracks, horse racecourses, fixed and mobile pool betting facilities, (whether operated by the Tote or the track operator), and any other proposed gambling facilities; the plans should make clear what is being sought for authorisation under the Track Betting Premises Licence. c) Details of any other areas of the track, which may be the subject of a separate application, for a different type of premises licence.
25.14	<p>Self Contained Premises on Tracks</p> <p>The Licensing Authority will generally require that all ‘self-contained premises’ operated by off-course betting operators on track, be the subject of a separate Premises Licence. This will ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the track premises.</p>
26	TRAVELLING FAIRS
26.1	<p>Travelling fairs do not require any permit to provide gaming machines, but must comply with the legal requirements as to the way the machines operate. They may provide an unlimited number of Category D gaming machines and/or equal chance prize gaming machines, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.</p>
26.2	<p>A given area of land may, by statute, only be used on 27 days per calendar year for the purposes of accommodating a fair. The statutory maximum of 27 days calendar use, applies to the land on which the fairs are held and that use is cumulative, regardless of whether it is the same fair or a procession of different travelling fairs.</p>
26.3	<p>The Licensing Authority will monitor fairs, (whether travelling or otherwise), which provide category D gaming machines or equal chance prize gaming machines within Torbay, to ensure that the provision of gambling is ancillary to the amusement provided at the fair and to ensure that the statutory limits upon the annual use of the land, are not exceeded.</p>
26.4	<p>The Licensing Authority will work with its neighbouring licensing authorities to ensure that any inter-authority sites which may be used for the provision of fairs, are appropriately monitored to ensure due compliance with statutory requirements.</p>
27	REVIEWS
27.1	<p>An ‘Interested Party’ or a ‘Responsible Authority’ can make an application to the Licensing Authority at any time, requesting that the Licensing Authority review a licence that it has granted; the Licensing Authority may also initiate a review of a licence itself.</p>

	<ul style="list-style-type: none"> a) Responsible Authorities are scheduled to Appendix 2 of this 'Statement of Principles' b) Interested Parties are defined at Section 4 of this 'Statement of Principles'
27.2	<p>Should the Licensing Authority receive an application requesting the review of a licence, the Licensing Authority will make a determination as to whether or not the review is to be carried out. In making this determination the Licensing Authority will consider whether the request for the review is relevant to the matters listed below:</p> <ul style="list-style-type: none"> a) In accordance with any relevant Code of Practice issued by the Gambling Commission. b) In accordance with any relevant guidance issued by the Gambling Commission. c) Reasonably consistent with the licensing objectives. d) In accordance with Torbay Council's 'Statement of Principles'.
27.3	<p>The Licensing Authority will also make a determination as to whether or not the application for the licence review is made on relevant grounds; the following are examples of grounds which may be considered by the Licensing Authority, to be irrelevant, <i>(this list is indicative and is not exhaustive)</i>:</p> <ul style="list-style-type: none"> a) Representations which are inconsistent with Section 153 of the Act. b) Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this 'Statement of Principles'. c) Representations which relate to an objection to gambling activity generally; for instance on moral grounds. d) Representations in relation to the demand or unmet demand for gambling premises. e) Representations in relation to planning matters. f) Public Safety Issues. g) Traffic Congestion issues.
27.4	<p>The Licensing Authority will not initiate a licence review if it considers that the grounds upon which the review is being sought are:</p> <ul style="list-style-type: none"> a) Frivolous b) Vexatious c) Substantially the same as representations made at the time that the application for a premises licence was considered; the Licensing Authority will not normally review a licence to re-visit issues which were considered at the time of the grant. d) Substantially the same as the grounds cited in a previous application for review, relating to the same premises, and a sufficient or reasonable period of time has not elapsed since that previous application was made. e) Insignificant; to such an extent, that it would be wholly unreasonable for the Licensing Authority to revoke or suspend the licence; or to remove, amend or attach conditions to the licence, on the basis of such representation.
27.5	<p>Should the Licensing Authority determine that an application for a licence review, (which has been duly submitted by an 'Interested Party' or a 'Responsible Authority'), is valid or should the Licensing Authority decide to initiate a licence review of its own volition; then that licence review will be undertaken and progressed to conclusion, in accordance with the requirements of the Act, any guidance or codes of practice issued by the Gambling Commission and this 'Statement of Principles'.</p>

	PART C - PERMITS / TEMPORARY AND OCCASIONAL USE NOTICES
28	UNLICENSED FAMILY ENTERTAINMENT CENTRE, (UFEC) GAMING MACHINE PERMITS ~ STATEMENT OF PRINCIPLES ON PERMITS
28.1	Unlicensed Family Entertainment Centres, (UFEC's), are premises commonly located at seaside resorts, on piers, at airports or at motorway service stations. These establishments cater for families, including unaccompanied children and young persons and, subject to the grant of a permit from the Council, operators can provide an unlimited number of Category D gaming machines, upon the premises.
28.2	Where a premises does not have the benefit of a premises licence issued under the Act, but the applicant wishes to provide Category D gaming machines; an application may be made to the Licensing Authority for an unlicensed family entertainment centre permit. The applicant must satisfy the Licensing Authority that the premises will be 'wholly or mainly' used for making gaming machines available for use.
28.3	The Licensing Authority will require as part of the application form, a plan to scale clearly defining the area covered by the UFEC.
28.4	The Licensing Authority will issue permits for unlicensed family entertainment centres in accordance with the following principles: a) The licensing objectives. b) Any relevant regulations or codes of practice. c) Any guidance issued by the Gambling Commission. d) The principles set out in this 'Statement of Principles'.
28.5	The Licensing Authority will only grant a permit if satisfied that the premises will be used as an unlicensed family entertainment centre and that the Devon and Cornwall Police have been consulted in relation to the application; applicants will also be required to demonstrate to the Licensing Authority: a) That the applicant has a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre. b) That staff are suitably trained and have a full understanding of the maximum stakes and prizes permissible in an unlicensed family entertainment centre. c) That the applicant has no convictions, which may have been identified as 'relevant convictions', for the purposes of the Act.
28.6	The Licensing Authority will expect the applicant to show that they have policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. Such measures may include: a) Enhanced Criminal record checks for staff. b) Appropriate measures / training for staff as regards suspected truant school children on the premises. c) Appropriate measures / training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on / around the premises.

28.7	The Licensing Authority can grant or refuse an application for an unlicensed family entertainment centre permit; however it cannot attach conditions to a permit.
29	(ALCOHOL) LICENSED PREMISES ~ GAMING MACHINE PERMITS
29.1	There is an automatic entitlement to provide a maximum of 2 Category C and/or D gaming machines, on premises that are licensed under the Licensing Act 2003, for the sale and consumption of alcohol on the premises. Subject only to the proviso, that the premises licence holder must serve notice of intention upon the Licensing Authority in respect of those machines.
29.2	The Licensing Authority can remove the ' <i>Licensing Act 2003 Automatic Entitlement</i> ' in respect of any particular premises if: <ul style="list-style-type: none"> a) The provision of the machines is not reasonably consistent with the pursuit of the licensing objectives b) The licensee has breached the requirements of the Gambling Act 2005. c) An offence under the Gambling Act 2005 has been committed on the premises. d) The premises are mainly used for gaming.
29.3	The provision of gaming machines, on premises licensed for the sale and consumption of alcohol, in excess of the automatic two machine entitlement, can only be authorised by way of a permit issued by the Licensing Authority.
29.4	In considering any application for a permit to authorise the provision of more than two machines, on premises licensed under the Licensing Act 2003, for the sale and consumption of alcohol; the Licensing Authority will have regard to the following: <ul style="list-style-type: none"> a) The requirements of the Gambling Act 2005. b) The Licensing Objectives. c) Any guidance issued by the Gambling Commission. d) Any Code of Practice issued by the Gambling Commission. e) The principles within this 'Statement of Principles'. f) Any other matters that the Council considers relevant.
29.5	The matters that the Licensing Authority considers relevant in point (f) above, will include but are not exclusive to <ul style="list-style-type: none"> i) any consultation it considers relevant by The Police and the Children's Safeguarding Board; ii) any relevant policies e.g. child protection from the applicant; iii) the percentage of gross turnover the gaming machines contribute to total gross turnover of the premises and this should not be significant; iv) the confidence Torbay Council has in the management of the premises.
29.6	In granting a permit the Licensing Authority can prescribe a different number of machines to that which was applied for, and can prescribe the particular category of machine(s) that may be permitted; however the Licensing Authority cannot attach conditions to a permit.
29.7	Applications for permits under this section cannot be made in respect of unlicensed non-alcoholic areas of, (<i>Licensing Act 2003</i>), licensed premises. Such areas would need to be considered under the provisions relating to 'Family Entertainment Centres' or 'Adult

	Gaming Centres’.
30	PRIZE GAMING PERMITS ~ STATEMENT OF PRINCIPLES ON PERMITS
30.1	<p>In considering any application for a prize gaming permit the Licensing Authority will have regard to the following:</p> <ul style="list-style-type: none"> a) The type of gaming that the applicant is intending to provide. b) The requirements of the Gambling Act 2005. c) The Licensing Objectives. d) Any guidance issued by the Gambling Commission. e) Any statutory and mandatory conditions. f) The principles within this ‘Statement of Principles’.
30.2	The Licensing Authority will expect the applicant to demonstrate that they understand the limits applicable to ‘stakes and prizes’ that are set out in Regulations; and that they are able to understand and ensure that the gaming to be provided is within the law.
30.3	<p>There are statutory and mandatory conditions in the Act which the permit holder must comply with and the Licensing Authority cannot impose any additional conditions to the grant of a permit. The conditions in the Act are:</p> <ul style="list-style-type: none"> a) The limits on participation fees, as set out in regulations, must be complied with. b) All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played. c) The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value, (if non-monetary prize). d) Participation in the gaming must not entitle the player to take part in any other gambling.
31	CLUB GAMING PERMITS AND CLUB MACHINE PERMITS
31.1	Members Clubs may apply for a ‘Club Gaming Permit’ or a ‘Club Machine Permit’. Commercial Clubs may apply for a ‘Club Machine Permit’.
31.2	The grant of a ‘Club Gaming Permit’ by the Licensing Authority will enable the premises to provide gaming machines (3 machines of categories B, C or D, but only 1 B3A machine), equal chance gaming and games of chance as set out in regulations.
31.3	<p>The grant of a ‘Club Machine Permit’ by the Licensing Authority will enable the premises to provide up to a maximum of three gaming machines of categories B, C or D.</p> <p><i>NOTE: This maximum entitlement of three machines will include any machines provided by virtue of the Licensing Act 2003 entitlement; it is not in addition to that entitlement.</i></p>
31.4	Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming; unless the gaming is permitted by separate regulations. This may cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A ‘Members’ Club’ must be permanent in nature, not established to make commercial profit, and controlled by its members in equal part. Examples would include ‘Working Men’s Clubs’, branches of the ‘Royal British Legion’ and clubs with political affiliations.

31.5	<p>The Licensing Authority may only refuse an application for a 'Club Gaming Permit' or a 'Club Machine Permit' on the grounds that:</p> <ul style="list-style-type: none"> a) The applicant does not fulfil the statutory requirements for a members' club, a commercial club or a miners' welfare institute; and therefore is not entitled to receive the type of permit for which it has applied. b) The applicant's premises are used wholly or mainly by children and/or young persons. c) An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities. d) A permit held by the applicant has been cancelled in the previous ten years. e) An objection to the grant of a permit has been lodged by the Gambling Commission or the Police.
31.6	<p>The Licensing Authority is aware that there is a fast track procedure for the issue of a permit to premises which hold a club premises certificate granted under the Licensing Act 2003. Under this fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police.</p>
31.7	<p>The 'fast track' process afforded to an applicant under the Licensing Act 2003 does not provide any statutory right to the issue of a permit and the Licensing Authority may resolve to refuse the grant of a 'fast track' application on the following grounds:</p> <ul style="list-style-type: none"> a) That the club is established primarily for gaming, other than gaming prescribed under Schedule 12 of the Act, <i>that section relating to 'Club Gaming Permits' and 'Club Machine Permits'</i>. b) That in addition to the prescribed gaming to be provided under the permit, the applicant provides facilities for other gaming on the same premises. c) That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
31.8	<p>No child shall be permitted to use a Category B or C gaming machines on the premises and that the holder of the Premises Licence must comply with any code of practice relevant to the location and operation of gaming machines.</p>
32	<p>TEMPORARY USE NOTICES</p>
32.1	<p>There are a number of statutory limits as regards temporary use notices. The limits are set out in the Act as:</p> <ul style="list-style-type: none"> a) A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months. b) A set of premises may be the subject of more than one temporary use notice in a period of 12 months; provided that the aggregate of the periods for which the notices have effect does not exceed 21 days.
32.2	<p>The purposes for which a temporary use notice may be used are restricted by regulations, to the provision of facilities for equal chance gaming only, which must be provided by means other than 'machine gaming'.</p> <p><i>'Equal Chance Gaming' is gaming where the participants are taking part in a gambling competition which is intended to produce a single, overall winner. An example of this would</i></p>

	<i>be a poker competition.</i>
32.3	In considering whether to object to a temporary use notice the Licensing Authority will have particular regard to this 'Statement of Principles', and any guidance issued by the Gambling Commission, with regard to the nature and definition of a 'premises' or a 'place'. Should the Licensing Authority consider that 'Temporary Use Notices' are being employed at premises, (or for discreet parts of premises), to the extent where 'regular gambling' is thereby being provided within a given building or at a given place; then the Licensing Authority may object to the notice(s).
33	OCCASIONAL USE NOTICES
33.1	With regard to 'Occasional Use Notices' the Licensing Authority will ensure the following: <ul style="list-style-type: none"> a) That the statutory limit of 8 days in a calendar year is not exceeded. b) That the subject premises can reasonable and effectively be defined as a 'track' c) That the applicant is permitted to avail himself / herself of the notice.

34	APPENDICIES
	Appendix 1 ~ Consultation
1	<p>The Gambling Act 2005 requires that the following parties are consulted by Torbay Council prior to publication of the finalised 'Statement of Principles':</p> <ol style="list-style-type: none"> The Chief Officer of Police. One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the authority's area. One or more persons who appear to the Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Gambling Act 2005.
2	<p>The finalised 'Statement of Principles' will be made following consultations with the following:</p> <ol style="list-style-type: none"> Residents and businesses of Torbay Bodies representing existing gambling businesses in Torbay The Chief Officer of Devon and Cornwall Police The Chief Officer of Devon and Somerset Fire and Rescue Service Torbay & Southern Devon Health & Care NHS Trust and Local Health Providers Devon & Torbay Safeguarding Children Board Torbay Council : Planning, Community Safety and Highways Authorities Safer Communities Torbay Facilities in Torbay assisting vulnerable persons Faith groups; via Torbay Interfaith Forum and the Street Pastors Torbay Town Centres Company Brixham Town Council English Riviera Tourism Company Economic Development Agency
3	<p>In determining the finalised 'Statement of Principles', Torbay Council will undertake to give appropriate weight to the views of those it has consulted. In determining what weight to give to a particular representation, the factors taken into account will include:</p> <ol style="list-style-type: none"> Who is making the representation; (what is their expertise or interest?) What was the motive for their representation? How many other people have expressed the same or similar views? How far the representations relate to matters that Torbay Council should be including in its 'Statement of Principles'
4	<p>Torbay Council has designated the Torbay Safeguarding Children Board, (<i>TSCB</i>), as the 'Competent Body' to advise the Council, with regard to the licensing objective that protects children from being harmed or exploited by gambling.</p>

Appendix 2 ~ Schedule of Licensing Authority and Responsible Authority Contacts	
Licensing Authority	
1	<p>Licensing and Public Protection Team Town Hall Castle Circus Torquay TQ1 3DR</p> <p>Tel: 01803 208025 E-mail: licensing@torbay.gov.uk – Email is this still checked – enquiry with Laura.</p>
Responsible Authorities	
2	<p>Licensing Department Devon and Cornwall Police HQ Middlemoor Exeter EX2 7HQ</p> <p>Tel: 01392 452225 E-mail: licensingeast@devonandcornwall.pnn.police.uk</p>
3	<p>Devon and Somerset Fire and Rescue Service Western Command Devon South Group Torquay Headquarters Newton Road Torquay TQ2 7AD</p> <p>Tel: 01803 653700 E-mail: southfiresafety@dsfire.gov.uk</p>
4	<p>Torbay Safeguarding Children Board Torbay Council Town Hall Castle Circus Torquay TQ1 3DR</p> <p>Tel: 01803 207176 E-mail: tscb@torbay.gov.uk</p>
5	<p>Licensing and Public Protection Team (Public Nuisance) Town Hall Castle Circus Torquay TQ1 3DR</p>

	<p>Tel: 01803 208025 E-mail: licensing@torbay.gov.uk</p>
6	<p>Planning and Development Services Town Hall Castle Circus Torquay TQ1 3DR</p> <p>Tel: 01803 207801 E-mail: planning@torbay.gov.uk</p>
7	<p>Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP</p> <p>Tel: 0121 230 6666 E-mail: info@gamblingcommission.gov.uk</p>
8	<p>HM Revenue & Customs Betting and Gaming National Registration Unit Portcullis House 21 India Street G2 4PZ</p> <p>Tel: 0141 5553633 E-mail: nrubetting&gaming@hmrc.gsi.gov.uk</p>
<p>Gamcare</p> <p><i>'Gamcare' is not a designated 'Responsible Authority' under the Gambling Act 2005 and has not been consulted by Torbay Council in relation to this 'Statement of Principles 2013'. However, Torbay Council has resolved to include the contact details of Gamcare within this appendix.</i></p> <p>GamCare 2nd Floor, 7-11 St John's Hill, London SW11 1TR</p> <p>Tel: 020 7801 7000 : Fax: 020 7801 7033 E-mail: info@gamcare.org.uk</p>	

Appendix 3 ~ Torbay Council Delegation Protocols

<u>Matter to be dealt with</u>	<u>Full Council</u>	<u>Licensing Committee or Licensing Sub-Committee</u>	<u>Officers</u>
Three year licensing policy	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn.
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn.
Application for the transfer of a licence		Where representations have been received from the Gambling Commission.	Where no representations received from the Gambling Commission.
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn.
Review of a premises licence		X	
Application for club gaming / club machine permits		Where objections have been made (and not withdrawn)	Where no objections made / objections have been withdrawn.
Cancellation of club gaming / club machine permits		X	
Applications for other permits except below			X
Applications for gaming machine permits		For more than 4 machines or where representations have been received.	For up to 4 machines where no representations received / representations have been withdrawn.
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Appendix 4 ~ Schedule of Gaming Machine Provision by Premises

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
Small casino (machine/table ratio of 2-1 up to maximum)	Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)						
Pre-2005 Act casino (no machine/table ratio)	Maximum of 20 machines B to D (except B3A machines), or any number of C or D machines instead						
Betting premises and tracks occupied by pool betting	Maximum of 4 machines categories B2 to D (except B3A machines)						
Bingo premises				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**	No limit on category C or D machines		
Adult gaming centre				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**	No limit on category C or D machines		
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)						No limit on category D machines	
Clubs or miners' welfare institute (with permits)				Maximum of 3 machines in Categories B3A or B4 to D*			
Qualifying alcohol-licensed premises				1 or 2 machines of category C or D automatic upon notification			
Qualifying alcohol-licensed premises (with gaming machine permit)				Number of category C-D machines as specified on permit			
Travelling fair				No limit on category D			

							machines
	A	B1	B2	B3	B4	C	D
<p>*It should be noted that members' clubs are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.</p> <p>** Adult gaming centre and bingo premises are entitled to make available a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available four (adult gaming centre premises) or eight (bingo premises) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centre premises and bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. But not B3A machines.</p>							

Appendix 5 ~ Schedule of Gaming Machine Categories and Entitlements

Category of machine	Maximum stake (Jan 2014)	Maximum prize (Jan 2014)
A No category A gaming machines are currently permitted		
B1	£5	£10'000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize (other than a crane grab machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D (money prize)	10p	£5
D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£20(of which no more than £10 may be a money prize)

- With option of max £20,000 linked progressive jackpot on premises basis only

Appendix 6 ~ Schedule of Gaming Entitlements for Clubs and Pubs

	Members' club with club gaming permit	Bridge or whist club	Members' club or commercial club with club machine permit	Member's club, or commercial club without a club gaming permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whilst only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 per week £250 per day £10 per person per game Other gaming No limit	Poker £1000 per week £250 per day £10 per person per game Other gaming No limit	Poker £100 per premises per day Other gaming £5 per person per game Cribbage & dominoes No limit
Limits on prizes	No limit	No limit	Poker £250 per game Other gaming No limit	Poker £250 per game Other gaming No limit	Poker £100 per game Other gaming No limit
Maximum participation fees – per person per day	Bridge and/or whist* £20 Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge and/or whist* £18 Other gaming £3 (commercial club) £1 (members' club)	Bridge and/or whist* £18 Other gaming £1	None permitted
Bankers or unequal chance gaming	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
Limits on bingo**	Maximum of £2,000 per week in stakes/ prizes. If more then will need an operating licence	No bingo permitted	Maximum of £2,000 per week in stakes/ prizes. If more then will need an operating licence	Maximum of £2,000 per week in stakes/ prizes. If more then will need an operating licence	Maximum of £2,000 per week in stakes/ prizes. If more then will need an operating licence

*On a day when no other facilities for gaming are provided.

** If more than the maximum, then an operating licence will be required



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

Title: **Licensing Act 2003 'Draft Statement of Principles 2016',
(Licensing Policy)**

Wards Affected: **All**

To: **Licensing Committee** On: **30 July 2015**

Key Decision: **No**

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

Contact Officer: **Mandy Guy**
☎ Telephone: **01803 208124**
✉ E.mail: **Mandy.guy@torbay.gov.uk**

1. What we are trying to achieve

- 1.1 To inform Members of the content of the draft 'Licensing Policy', (*hereinafter referred to as the 'Statement of Principles 2016'*), which Torbay Council is required to review and publish every five years.
- 1.2 To give Members the opportunity to comment on the draft 'Statement of Principles 2016' before it goes to a twelve week public consultation.

2. Recommendation(s) for decision

- 2.1 There is no recommendation for a decision, as this is a Full Council function. At this stage the draft 'Statement of Principles 2016' is a draft consultation document, and so Representations made by the Licensing Committee will be considered as part of that consultation process.

3. Key points and reasons for recommendations

- 3.1 The Licensing Act 2003 requires Torbay Council, as a Designated Licensing Authority, to review and publish a 'Statement of Principles', every five years, outlining the procedures it intends to follow in discharging its statutory responsibilities under the Act.
- 3.2 In accordance with that requirement, the Council has prepared a draft 'Statement of Principles 2016'. This draft has undergone informal consultation with Devon

and Cornwall Police and the Licensing and Torbay Council's Public Protection Team. As Such, the amendments recommended by these Responsible Authorities have been included within the draft Statement of Principles 2016, along with those made by other relevant Officers of Torbay Council.

- 3.3 This draft 'Statement of Principles 2016' will be a public document, which will be subject to a statutory 12 week consultation period and any person, body or organisation that may wish to make a Representation or comment upon the draft statement (including Elected Members), must do so in writing.
- 3.4 Upon completion of the statutory consultation period, the Council will consider any Representations made and if necessary amend the draft 'Statement of Principles 2016' to incorporate the relevant changes.
- 3.5 Approval of the finalised 'Statement of Principles 2016' is a Full Council decision and a report on the draft 'Statement of Principles 2016' will be presented to Full Council for consideration on 10th December 2015.

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

**Frances Hughes
Assistant Director (Community and Customer Services)**

Appendix A – Supporting information to Report

A1. Introduction and history

- A1.1 The Licensing Act 2003 requires Torbay Council, as a Designated Licensing Authority, to review and publish a 'Statement of Principles' every five years, outlining the procedures it intends to follow in discharging its statutory responsibilities under the Act. This is Torbay Council's fourth 'Statement of Principles' and will replace the existing 'Statement of Principles 2011', which expires on the 7th January 2016.
- A1.2 In accordance with this requirement, the Council has prepared a draft 'Statement of Principles 2016'. This draft has undergone informal consultation with Devon and Cornwall Police and Torbay Council's Licensing and Public Protection Team. As such, the amendments have been included within the draft Statement of Principles 2016, along with those made by other relevant Officers of Torbay Council.
- A1.3 To assist Members of the Licensing Committee, the proposed amendments to the existing 'Statement of Principles 2011' are highlighted as follows:
- red – delete
 - yellow – amendment/update
 - blue – additions from Devon and Cornwall Police and Torbay Council's Licensing and Public Protection Team.
- A1.4 The Police have requested that the Cumulative Impact Area remains unaltered as the number of violent crimes has increased and the area is responsible for a similar proportion of crime as in 2009 and 2010.
- A1.5 This draft 'Statement of Principles 2016' will be a public document, which will be subject to a statutory 12 week consultation period and any person, body or organisation that may wish to make a representation or comment upon the draft statement (including Elected Members), will be formally invited to do so.
- A1.6 Upon completion of the statutory consultation period, the Council will consider any representations which may have been made and if necessary, amend the draft 'Statement of Principles 2016' to incorporate the relevant changes..
- A1.7 Approval of the finalised 'Statement of Principles 2016' is a Full Council decision and a report on the draft 'Statement of Principles 2016' will be presented to Full Council for consideration on 10th December 2015.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no risks associated with this report, as this is a draft document for public consultation. However, it is important that a draft Statement of Principles amended or not, is agreed for consultation. Failure to do so would mean that Torbay Council would be unlikely to meet its statutory obligation and may find itself without a Licensing Policy which may subsequently lead to its decision

making process being undermined.

A3. Options

A3.1 None, as only Representations can be made.

A4. Summary of resource implications

A4.1 There are no significant additional resource implications that will derive from the Council discharging its routine and ongoing responsibilities, under the Licensing Act 2003.

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 Act 2003 Licensing Objectives is "Prevention of Crime and Disorder", so the work should have a positive impact on reducing this.

A6. Consultation and Customer Focus

A6.1 There is a 12 week public consultation on the draft 'Statement of Principles 2016', commencing in August, to end in October 2015.

A7. Are there any implications for other Business Units?

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

Annexes

Appendix 1 Draft 'Statement of Principles 2016'

Appendix 2 Cumulative impact Area (CIA) Crime Analysis

Documents available in members' rooms: None, however all three background documents are available on line at the available websites.

- 1 www.legislation.gov.uk
- 2 www.torbay.gov.uk
- 3 www.dcms.gov.uk

Background Papers:

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

- 1 Licensing Act 2003.
- 2 Revised Guidance issued under section 182 of the Licensing Act 2003: March 2015.

Torbay Council's Licensing Statement of Principles 2016

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The way the Council will communicate and enforce requirements
Contact details for advice on whether or not activities fall to be licensed
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Appendix 2 Scheme of Delegation
Appendix 3 Supplementary Information on Licensing Objectives
Appendix 4 Mandatory conditions.....	...

The ‘Licensing Statement of Principles 2016’ was ratified and adopted by Full Council on ...(date).....

Torbay Council's Licensing Statement of Principles 2016 Licensing Act 2003

Background

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

This document is Torbay Council's "Licensing Statement of Principles", made under Section 5 of the Licensing Act 2003. and supports Torbay Council's vision for a strong and prosperous bay.

Torbay 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 130,000 which can increase to over 200,000 in the summer months.

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

Torbay is situated on the South Devon coast, on the south west peninsula of England and comprises the three towns of Torquay, Paignton, and Brixham. Torbay is an outstanding coastal location including 22 miles of coastline which has shaped its economic and social development over time. Historically the local economy has focused on tourism, fishing and to a lesser extent manufacturing activities.

The three towns of Torbay and its environs have a combined population of 134,000, making Torbay the second largest conurbation to the south west of Bristol. Tourism in Torbay accounts for 1.45 million staying visitors plus 3.8 million day visitors, generating a direct and indirect spend of £442 million per annum. This represents around one third of the area's wealth and also one third of its jobs.

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

www.torbay.gov.uk

MAP of TORBAY

(Map to be inserted here)

This statement is set out in the following sections:

- Section 1** The Guiding Principles that will direct the Council in making its Licensing decisions
- Section 2** Primary considerations when an application is made.
- Section 3** Considerations when an application is heard by a Licensing Committee
- Section 4** The Council's rationale for issuing licences.
- Section 5** The role and influence of representations.
- Section 6** The way in which the Council will communicate and enforce requirements.

If you or someone you know has difficulty in understanding or reading this policy, then help will be offered to meet your needs. Please ring on 01803 208025 or email licensing@torbay.gov.uk

LICENSING STATEMENT OF PRINCIPLES

This Licensing Statement of Principles relates to the licensing of: -

- (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 11.00pm and 5.00am.

And is about regulating the carrying on of licensable activities on licensed premises, vehicles, vessels, events, qualifying clubs and at temporary events within the terms of the Act.

This fourth statement is made following consultations 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 Southern Devon Health & Care NHS Trust
- j) Torbay Council : Children's Services
- k) Torbay Council : Planning, Environmental Health and Highways Authorities
- l) The Torbay Safer Communities Partnership
- m) The Maritime and Coastguard Agency
- n) Faith groups via Torbay Interfaith Forum and the Street Pastors
- o) Torbay Development Agency
- p) Torbay Town Centres Company
- q) English Riviera Tourism Company
- r) Tor Bay Harbour Authority

Since the 24th November 2005 Torbay Council has been the Licensing Authority for the purposes of the Licensing Act 2003 (the Act). Its responsibilities include the administration and issue of Premises Licences, Personal Licences, Temporary Event Notices, Club Premises Certificates and Provisional Statements. In addition it is responsible, with the Police, for the enforcement of the legislation, in ensuring compliance with the conditions attached to Premises Licences and Club Premises Certificates as well as the Act itself.

Torbay Council also has a significant role in working with its partners and with the trade to address issues arising out of the late night economy.

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

1.1 Its duties, as the Licensing Authority, set out in the Act and its responsibility to promote the four Licensing Objectives:-

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

1.2 The need to treat each Licensing Objective with equal importance.

1.3 That while this "Licensing Statement of Principles" sets out a general approach to making licensing decisions, it must not ignore or be inconsistent with provisions in the Act. For example, a "Licensing Statement of Principles" must not undermine the right of any individual to apply under the terms of the Act for a variety of permissions or to have any such application considered on its individual merits.

1.4 That this "Licensing Statement of Principles" should 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.

1.5 That 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 impose a condition in order to promote one or more the Licensing Objectives. Conditions imposed will be reasonable and proportionate

1.6 Its responsibilities under Section 17 of the Crime and Disorder Act 1998, and within the strategic aims of the Safer Communities Torbay Strategic Assessment 2014/15 Torbay Community Safety Strategy 2008-11, and do all that is reasonable to prevent crime and disorder in Torbay.

1.7 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.

1.8 Its responsibilities to individuals under the Equality Act 2010, to have regard to the elimination of unlawful discrimination and its duty to promote equality of opportunity regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. This Act

replaces previous legislation (such as the Race Relation Act 1976, Disability Discrimination Act 1995).

- 1.9 The Council will aim to provide a joined up service for children which, whatever their background or circumstances, provides the support they need to achieve well being based upon the Every Child Matters outcomes of Stay Safe; Be Healthy, Enjoy and Achieve; have economic wellbeing; and make a positive contribution. The Licensing Authority will have regard to these outcomes when considering decisions under the Licensing Objectives.
- 1.10 That effective licensing can only be achieved by recognising the value of all contributions. The Licensing Authority strongly supports inclusivity and working in partnership 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 Licensing Authority encourages membership of local schemes such as NiteNet, Pub watch or StoreNet and values the contribution such schemes make to the fulfilment of the Licensing Objectives.
- 1.11 That its licensing decisions will be taken within the context of all strategies to which it is a signatory and will have regard to the potential impact its decisions may have on those strategies, providing these are not contradictory to the requirements of the Licensing Act 2003.
- 1.12 The Licensing Authority considers that its licensing decisions can be a key factor in the control of anti-social behaviour. Whilst accepting that it 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 it does as a matter of policy expect every holder of a licence issued under this Act to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their Premises. They will require licence holders 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 individual licensees and others in possession of relevant authorisations, 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.
- 1.13 That it 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 Licensing 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 necessity.

- 1.14 The Licensing Authority is satisfied, having been advised by and provided with supporting data from Devon and Cornwall Police, that the night time leisure economy is on occasions subject to some crime and disorder problems and which can lead to noise disturbance in some residential and commercial accommodation areas. Therefore the Licensing Authority has as part of this Policy included a Special Saturation Policy (otherwise known as a Cumulative Impact Policy) where an application for a new Licence, or variation of an existing Licence, would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area. This Special Saturation Policy will apply to all Premises in the areas designated in Appendix 1 to this Policy, when the sale of alcohol is proposed and relevant Representations are received from a Responsible Authority or an Interested Party and are upheld as relevant following a hearing.
- 1.15 That 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 minimum 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 necessity.
- 1.16 That the Act neither prohibits children gaining access to Licensed Premises, nor imposes nor permits the imposition of conditions to the effect that children must be admitted to those premises. These matters will be left to the discretion of the licensee or club unless the need to protect children from harm necessitates the imposition of conditions.
- 1.17 In the case of age classifications for films, the Policy of the Licensing 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.
- 1.18 That any necessary decisions in relation to planning legislation will be made completely independently of those made in respect of Licensing Act applications.
- 1.19 The 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.
- 1.20 The Licensing 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 should be encouraged and promoted for the wider

cultural benefit of the community in Torbay. The Licensing Authority will seek to monitor the impact of licensing on the provision of regulated entertainment and particularly on live music and dancing in Torbay. Some departments within Torbay 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 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 necessary, proportionate and reasonable as licensing conditions.

1.21 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 Licensing 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.

1.22 That licensing in so far as it seeks: -

- a) To control the physical safety of people using a location, does not seek to control public health, which is subject to other controls.
- b) To protect children, includes their protection from moral, psychological and physical harm.

1.23 The Council does not condone the use of illegal drugs, or psychoactive substances (otherwise known as 'legal highs') but recognises the importance of the Home Office document 'Safer Clubbing'. It 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.

1.24 The Licensing Authority commends to all applicants seeking to supply alcohol, 'The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

- 1.25 That clear enforcement protocols for licensing and associated activities are essential. Torbay Council works closely with the Police, Fire and other partners and through its Safety Advisory Group to establish and review Protocols that ensure an efficient deployment of Police, Council Officers and others engaged in enforcement of licensing and other relevant legislation, in order to ensure that resources are targeted at problem and high risk Premises and events.
- 1.26 That this Licensing “Licensing Statement of Principles” will be reviewed at least once in every five years by the Full Council and the effect of any orders in existence to control drinking in the streets will be reviewed as part of that process. The Special Saturation Policy for normally refusing new or the variation of an existing Premises Licences can be adopted or reviewed only by the Full Council. Such a review will take place every three years after the initial adoption or sooner if the Licensing Committee requires it, to see whether it has the effect intended and is still needed.

SECTION 2 - Primary considerations when an application is made

The Licensing Authority will: -

- 2.1 Deal with all applications within the statutory timescales.
- 2.2 Where relevant representations are received, consider each application:-
 - a) on its own merits,
 - b) in accordance with the Act, any subsequent amendments and supporting Regulations,
 - c) with regard to Guidance issued under Section 182 of the Act,
 - d) under the terms of this Policy.
- 2.3 Expect the Applicant to 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 three for further information)
- 2.4 Consider **in particular** 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 Recommend, in the case of applications for Premises Licences or Club Premises Certificates that the activity sought by the applicant has a lawful planning use. Where an application is submitted to permit licensable activities, the Applicant will need to be mindful of other restrictions that may affect the use of such a grant e.g. where a terminal hour has been set by planning permission for commercial use of the Premises. Where these hours are different to the licensing hours, it will be for the Applicant to ensure compliance with the earlier time’.
- 2.6 Expect Applicants to indicate whether or not the area to be licensed includes or comprises part of the public highway. This must be included on any plan submitted as part of an application. **It is the Policy of** Torbay Council **supports to encourage** 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 Licensing Authority may grant permission under Section 115E of the Highways Act 1980 for an applicant to use the public highway outside Premises for placing tables and chairs but the use of such an area will be subject to separate application, requirements and conditions under provisions of the Highway Act 1980.

2.7 Describe as '**Special Risk Entertainment**' 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;

and expect details of any 'Special Risk Entertainment' to be provided and clearly specified in the submitted Operating Schedule.

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

SECTION 3 - Additional considerations when an application is heard by a Licensing Committee

Where there are no relevant Representations, the application will be granted as applied for, subject to conditions which reflect the Operating Schedule and any mandatory conditions. Where there is a relevant Representation, the application will usually proceed to a contested hearing, following which the Licensing Authority may take such steps as are necessary to promote the Licensing Objectives. In considering the application, the Licensing 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 Authority, consider the matters set out below and incorporate them as necessary into their Operating Schedule

Where there have been relevant Representations the Licensing Authority will consider the content of any application with respect to the following matters: -

3.1 THE PREVENTION OF CRIME AND DISORDER

- a) The adequacy of measures proposed to prevent **crime and disorder** and the history of any previous relevant enforcement action, particularly in relation to the use of the Premises for: -
- (i) the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crime;
 - (ii) the sale and distribution of illegal firearms;
 - (iii) the evasion of copyright in respect of pirated films and music;
 - (iv) the under-age purchase and consumption of alcohol;
 - (v) prostitution or for the sale of unlawful pornography;
 - (vi) use by organised groups of paedophiles to groom children;
 - (vii) the base for the organisation of criminal activity;
 - (viii) the organisation of racist activity or the promotion of racist attacks;
 - (ix) unlawful gambling;
 - (x) the sale of smuggled tobacco and alcohol.
- b) The measures the Applicant has taken or proposes to take to:-
- (i) **Prevent** the consumption or supply of illegal drugs and psychoactive substances (otherwise known as 'legal highs'), including a written drugs Policy, any entry and search procedures, and 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 premise open after midnight with a capacity of 500 or more, the provision of a police drugs box and register.

- (ii) **Improve** security or public safety, for example by:
- using CCTV of an evidential standard which is continually monitored with recordings retained for 14 days;
 - the employment of specified numbers of SIA registered door supervisors for security duties and / or stewards for general public service or management, who shall be visible at all times and locations by means of clearly identifiable yellow reflective over-garments with the addition of personal arm band identification and
 - the adoption of a 'safe capacity' necessary for the promotion of public safety or the prevention of disorder on the premises.

- (iii) **Determine** whether other measures to prevent nuisance have been taken, such as the use of CCTV or the employment of SIA registered door supervisors.

Licensees should consider:

(a) Recruiting SIA (**Security Industry Authority**) licensed door supervision staff from a company that is compliant with the requirements set out in the Security Industry Authority Approved Contactor Scheme (visit the SIA website www.sia.homeoffice.gov.uk for further information); and

(b) What measures will be taken and what procedures are in place for licensees to check the SIA register of licensed door supervisors to ensure their Premises and patrons are only protected by door supervisors with an SIA licence. Torbay Council recommends the use of the SIA Company Licence Checker facility (visit the SIA website www.sia.homeoffice.gov.uk for further information).

- (iv) **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.
- (v) **Facilitate** effective communications by means of text or radio pagers or other means to enable instant contact with local Police, CCTV Monitoring Room or between Licensed Premises in a locality to warn of situations of disorder or potential disorder.
- (vi) **Demonstrate** a responsible approach to alcohol sales by ending alcohol sales by 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 two conditions to all Premises Licences and Club Premises Certificates where alcohol is sold or supplied on the Premises. (See Appendix 4)

- (vii) **Reduce** the risk of excessive alcohol consumption by providing and promoting reasonably priced soft drinks and making water available for free at all bars. The provision of free potable (safe to drink) water is a mandatory condition (See Appendix 4).
- (viii) **Reducing** the risk of crime and disorder being caused by street drinkers, who are or appear to be alcohol dependant. This may be particularly relevant to Premises that are permitted to provide sales of alcohol for consumption off the Premises, which are located in areas where concerns about street drinkers have been identified by Responsible Authorities or within the area defined in the Cumulative Impact Policy. Torquay CIA. Such Premises may be required not to stock or sell high strength or types of cheap ciders, beers or lagers or to sell single unit items, i.e. cans that are split from an original multi pack or other such packaging. See Appendix 3 for further information on the 'Reducing the Strength Campaign'.
- (ix) **Manage** the Premises safely by the provision of sufficient SIA registered door staff following a detailed risk assessment (See Appendix 3 for further information)
- (x) **Impose**, when necessary, a maximum allowable occupancy for an event, Premises or part or parts of Premises in the interests of public safety or for the prevention of crime and disorder.
- (xi) **Impose**, as appropriate, a requirement for the maintenance of a daily premises register of SIA registered door stewards (See Appendix 3 for further information)
- (xii) **Impose**, as appropriate, an incident log to record telephone calls, complaints and refusals for entry. (See Appendix 3 for further information)
- (xiii) **Ensure** that the Premises Licence Holder or the Designated Premises Supervisor 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.

(xiv) **Require** 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.

(xv) **Require** that all premises selling alcohol after midnight shall 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.

(xvi) **Ensure** that the Premises Licence Holder or the Designated Premises Supervisor takes all reasonable steps to ensure that staff employed at the Premises do not carry out, arrange or participate in any irresponsible drinks promotions, in relation to the Premises.

(xvii) **Impose**, as appropriate, a requirement for a Policy to ensure that there is a safe area for leaving drinks when customers leave the Premises temporarily, e.g. to smoke.

c) **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 Devon and Cornwall Constabulary including any recommendations made by the Constabulary's Architectural Design Liaison Officer.

e) The expected attendance and participation at local licensing forums and high risk event meetings.

3.2 THE PROMOTION OF PUBLIC SAFETY

a) The adequacy of measures proposed to deal with the **promotion of public safety** and in particular, the steps taken by, or the proposals of, the applicant to:-

(i) **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) **Provide** adequate facilities for people or performers with disabilities and to ensure their safety.

(iii) **Ensure** that the number of people, staff and performers, present in the Premises or 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) **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) 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 Licensing 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.
 - (vi) 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)
 - (vii) **Determine** the views of the Maritime and Coastguard Agency, as the lead Authority with regard to all the Licensing Objectives, in the case of an application for a Premises Licence in respect of a passenger vessel.
- b) In preparing an Operating Schedule for large scale events, which would require a Premises Licence, the Applicant is expected to consider if appropriate the following guidance and publications: -
- (i) Technical Standards for Places of Entertainment 2015 (ABTT, Chartered Institute of Environmental Health, District Surveyors Association, Institute of Licensing) ISBN 978 1 904031 83 3
Technical Standards for Places of Entertainment 08/09 (ABTT, District Surveyors Association, Institute of Licensing). ISBN 978 1 904031 53 6.
 - (ii) The Event Safety Guide (The Purple Guide) www.thepurpleguide.co.uk
The Event Safety Guide – A guide to health, safety and welfare at music and Similar events (HSE 1999) ("The Purple Book") ISBN 0 7176 2453 6.
 - (iii) Risk Assessment – A Brief guide to controlling risks in the workplace HSE INDG163
5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804

- (iv) The Guide to Safety at Sports Grounds, 5th edition (The Stationery Office, 2008) ISBN 13: 9780117020740
- (v) Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, Published: 2004 Revised 2009 ISBN 978-0-9544892-5-0 ISBN 0954489217

Guidance and advice from, Licensing Team, Town Hall, Castle Circus, Torquay TQ1 3DR.
Tel: 01803 208025

3.3 THE PREVENTION OF PUBLIC NUISANCE

- a) The adequacy of measures proposed to deal with the **potential for nuisance** and in particular the steps taken by, or proposals of, the Applicant to:-
 - (i) **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) **Prevent** noxious fumes from causing a nuisance to occupants of nearby residential and commercial Premises or land.
 - (iii) **Prevent** disturbance from light arising from security devices, floodlighting, advertising lighting or any special effect lighting.
 - (iv) **Prevent** disturbance by patrons arriving at or leaving the Premises, or in the vicinity of the Premises, especially when smoking.
 - (v) **Prevent** disturbance by patrons using external smoking or beer garden areas from causing a nuisance to nearby neighbours.
 - (vi) **Prevent** queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises or otherwise manage the queue to prevent disturbance or obstruction.
 - (vii) **Consider** the cumulative effect from multiple one off events giving rise to nuisance.
 - (viii) **Ensure** that staff leave the Premises quietly.
 - (ix) **Ensure**, where appropriate, that arrangements are made for parking by patrons and consider the effect of additional parking on local residents.

- (x) **Consider** whether there is sufficient provision for public transport for patrons.
- (xi) **Determine** whether taxis and private hire vehicles serving the Premises are likely to disturb local residents and people staying in holiday accommodation.
- (xii) **Consider** 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, what effect does this have on such properties.
- (xiii) **Determine** whether other measures to prevent nuisance have been taken, such as the use of CCTV or the employment of SIA registered door supervisors.

Licensees should consider:

- (a) Recruiting SIA (**Security Industry Authority**) licensed door supervision staff from a company that is compliant with the requirements set out in the Security Industry Authority Approved Contactor Scheme (visit the SIA website www.sia.homeoffice.gov.uk for further information); and
- (b) What measures will be taken and what procedures are in place for licensees to check the SIA register of licensed door supervisors to ensure their Premises and patrons are only protected by door supervisors with an SIA licence. Torbay Council recommends the use of the SIA Company Licence Checker facility (visit the SIA website www.sia.homeoffice.gov.uk for further information).
- (xiv) **Improve** the management of the Premises following any previous or current enforcement action taken.
- (xv) **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.
- (xvi) **Implement** where appropriate the outcomes of consultations held between by the Applicant and Torbay Council's Licensing & Public Protection Team in respect of the application and submitted Operating Schedule. with Torbay Council's *Environmental Enforcement Officers*.

3.4 THE PROTECTION OF CHILDREN FROM HARM

- a) The adequacy of measures proposed to protect children from harm and in particular the steps taken by, or proposals of the Applicant to protect children:-
- (i) **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 under age drinking.
 - (ii) **Where** the supply of alcohol for consumption on the Premises is the exclusive or primary purpose of the services provided at the Premises.
 - (iii) **Where** there is a known association with drug taking or dealing.
 - (iv) **Where** there is a strong element of gambling on the Premises (e.g. jackpot machines).
 - (v) **Where** entertainment or services of an adult or sexual nature are provided.
 - (vi) **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) **Where** there are cigarette vending machines on the Premises.
 - (viii) **Where** children are employed without a work permit issued by Torbay Council.
- b) The steps the applicant has taken or proposes to: -
- (i) **Clearly** state their intentions to manage the premises so as to protect children from harm.
 - (ii) **Limit** the hours when children may be present.
 - (iii) **Impose** age limitations, for those under 18 years, on attendance.
 - (iv) **Impose** age limitations, for those under 18 years, on employment.
 - (v) **Limit** or exclude children when “Special Risk Entertainments” are taking place.
 - (vi) **Limit** access by children to only parts of the Premises.

- (vii) **Limit** access to cigarette vending machines.
 - (viii) **Require** the presence of an accompanying adult.
 - (ix) **Fully exclude** persons under 18 years from the Premises when any or all licensable activities are taking place.
 - (x) **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 Licensing 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** photo card driving licence issued in a European Union country
 - (iii) **Provisional driving licence**
 - (iv) Proof of Age Standards Scheme (PASS) card
 - (v) **Official Military** identity card issued by HM Forces or by a European Union country bearing a photograph and date of birth of the bearer.
- d) The Licensing Authority recommends that Premises that sell or supply alcohol adopt the Challenge 25 scheme.
- e) The Licensing Authority recommends that premises that 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 Licensing Authority also recommends that records of all staff training are kept for a period of 12 months and made available to a Responsible Authority on reasonable request and that the premises has a written Age Verification Policy, which is also made available to a responsible authority on reasonable request. All members of staff must read and sign to confirm their understanding of the Policy, in order to support compliance with the Mandatory Condition. (See Appendix 3 for further information)
- f) The Licensing 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 Licensing Authority will normally require as a minimum the following arrangements:-

- (i) An adult member of staff to be stationed in the vicinity of each of the exits from any level of the Premises, subject to there being a minimum of one member of staff per 50 children or part thereof (subject to (iv) below).
 - (ii) No child to be permitted in the front row of any balcony unless accompanied by an adult.
 - (iii) No standing to be permitted in any part of the auditorium during the performance.
 - (iv) At least one adult member of staff of each gender, when groups of mixed gender are present.
- h) Clearly stated measures where regulated entertainment is specially presented for under 18's in an existing Licensed Premises, Torbay Council will normally require as a minimum, the conditions found in appendix three. (See Appendix three for further information).
- i) Where regulated entertainment includes child performers, the arrangements the Applicant proposes to ensure that the person responsible for the production has complied with Torbay Council's Children's Services requirements, as set out in their guidance 'Children in Entertainment'.
- j) Where a regulated entertainment is held specifically targeting children, the steps the Applicant proposes to demonstrate that the organisers of the event have ensured that their employees or other persons who will be responsible for supervising children have been submitted to the advanced disclosure mechanism operated by the **Disclosure and Barring Service** **Criminal Records Bureau**.

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

- 4.1 **Ensure**, whenever possible, that where progression of an application depends on both planning and licensing components, any formal consideration of the planning matters take place prior to determination of the licensing aspects.
- 4.2 **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.
- 4.3 **Impose**, when necessary, a maximum allowable occupancy for an event, Premises or part or parts of Premises in the interests of public safety or for the prevention of crime and disorder.
- 4.4 **Impose**, when appropriate, stricter conditions, limited hours and in some circumstances refuse types of regulated entertainment at Premises in close proximity to residential premises.
- 4.5 **Refuse** or limit 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)
- 4.6 Impose, when necessary, conditions limiting the access of children to Licensed Premises solely for the prevention of harm to children.
- 4.7 Impose mandatory conditions, if the Premises Licence is to authorise the supply of alcohol. The relevant mandatory conditions can be found in appendix 4.
- 4.8 Impose as a mandatory condition where a Premises License is to authorise the exhibition of films: -
- 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 Licensing 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.
- 4.9 **Impose** conditions that will reasonably reflect the work plan of the local crime prevention strategy supported by the Community Safety Partnership Crime and Disorder Reduction Partnership, Safer Communities Torbay, where these are necessary to promote the licensing objectives.

- 4.10 Impose**, where necessary, a requirement that individuals shall be present at the Premises to carry out security activity for the purpose of promoting the reduction in crime and disorder (i.e. door supervisors) or other stewarding or supervisory functions and that each individual so required to carry out a security activity shall be licensed by the Security Industry Authority. The Licensing Authority's Policy is that two door stewards must be employed for the first 100 people likely to be present in the premises, and thereafter one steward must be employed for each additional 100 people. one door supervisor to carry out security duties must be employed for each seventy five people likely to be present in the Premises. This can, however, be altered subject to the Applicant demonstrating through a suitable and sufficient risk assessment, to the satisfaction of the Responsible Authorities, that a different ratio is appropriate. This risk assessment should take into consideration the duties required by the stewards, the layout of the premises and any key locations/flash points/pinch points within the premises that will require additional stewards.
- 4.11 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.
- 4.12 Seek** to promptly set before the 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 and to deal with licensing issues speedily, efficiently and in a cost effective manner by exercising the power of delegation to Officers for non-contentious issues. Officers will however decline to put any application before Members if it is incomplete
- 4.13** Torbay Council's full scheme of delegation, which will only normally be amended by Full Council during any Licensing 'Licensing Statement of Principles' review, is set out in Appendix 2.

SECTION 5 - The role and influence of Representations:-

The Licensing Authority: -

- 5.1 Recognises the right of a person living or running a business within the vicinity 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 now 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.

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

- 6.1 **The Council** has a Licensing Committee comprising of 15 Members of the Council in order to discharge the functions of the Licensing Authority and a Licensing Sub-Committee comprising of any three Members of the Licensing Committee to discharge any function it directs that is exercisable by the Licensing Committee.
- 6.2 **A Chairperson** of the Licensing Committee will be elected at the first annual meeting of the Licensing Committee.
- 6.3 **The Council** will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with the Council's constitution. No Member of the Council 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 Adhere to the principles of The Regulators' Compliance Code (April 2014), 2008, which include:-
- a) having clear standards
 - b) Carrying out their activities in a way that supports those they regulate to comply and grow
 - c) Provide simple and straightforward ways to engage with those they regulate
 - d) Regulating based on risk
 - e) Acting in a proportionate and consistent manner.
 - f) Share information securely with other regulators to better target resources
 - g) Ensure clear information, guidance and advice is available to help those they regulate, comply.
 - h) Demonstrating a clear complaints procedure for all licensing issues, recognising that all individuals have an absolute right to make representations or seek a review.
 - i) being helpful and open
 - j) acting proportionately and consistently
 - k) inspecting based upon risk, and
 - l) demonstrating a clear complaints procedure for all licensing issues, recognising that all individuals have an absolute right to make representations or seek a review.
- 6.6 Publicise the Terms of Reference set down for its Licensing Committee.
- 6.7 Recognise enforcement as 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 Council 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 Work with the Police and other enforcement agencies to support its Protocols:-
- ‘Licensing Act 2003 – Information Exchange’ and
‘Preventing the illegal supply of alcohol to persons under the age of 18 years’
- 6.9 **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 **Comply** with the Code of Practice: Age Restricted Products, Published by BIS/BRDO 2014, LACORS guide on test purchasing operations, ‘A Practical Guide to Test Purchasing’ 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 **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) **Prosecution** of personal licence holders who sell alcohol to people who are drunk.

- e) **Powers of the Police**, Responsible Authorities or a local resident or business to seek a Review of a Premises Licence or Club Premises Certificate.
 - f) **Responsive** enhancement of public lighting standards in areas identified as being, or with potential for being, problematic from the point of view of crime, disorder or public safety.
 - g) **Flexible** resourcing of the Council's Communication Centre to maintain optimum use of the CCTV system with its partners in accordance with its Code of Practice for the Operation of Closed Circuit Television (August 2001).
 - h) **Promotion** of the NiteNet, Pub Watch or StoreNet communication systems and where appropriate impose the participation in the NiteNet scheme upon applicants through licence conditions.
 - i) **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 requirements of the Licensing Act 2003. In addition it will investigate any complaints, regarding noise, public safety or child protection that is within its remit.

Contact details for advice on whether or not activities fall to be licensed

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

Contact details of responsible authorities

Devon and Cornwall Police
Licensing East
Force Headquarters
Exeter
EX2 7HQ
Tel: 01392 452225
Fax: 01392 452447803 841287
E-mail: licensingeast@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

Safeguarding Manager
Local Safeguarding Children Board
C/O Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 207176
Email: tscb@torbay.gov.uk

Interim Director of Public Health
Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 207350

Email: Publichealth@torbay.gov.uk

Maritime and Coastguard Marine Office
New Fish Quay Market
Plymouth
PL4 0LH
Tel: 01752 266211
E-mail: Plymouth_mo@mcga.gov.uk

Licensing and Public Protection Team (Public Nuisance)

Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208025
Email:@torbay.gov.uk

Food & Safety Team

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

Health and Safety Executive

North Quay House
North Quay
Plymouth
PL4 0RA

Tel: 01752 276300

E-mail: formsadmin.plymouth@hse.gsi.gov.uk

Planning

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

Trading Standards

Town Hall

Castle Circus

Torquay

TQ1 3DR

Tel: 01803 208025

E-mail: trading.standards@torbay.gov.uk

Appendix 1 – Special Saturation Policy

The area shaded grey on the attached plan is an area which has been identified by the Police as being subject to high levels of alcohol related crime and public nuisance. Evidence has been provided to show that the Council have made provision in its previous Licensing 'Statement of Principles' review for a Special Saturation Policy (otherwise known as a Cumulative Impact Policy (CIA)) and is to be continued in respect of this area.

The effect of this measure is to indicate that, where relevant representations have been made, an application for a new Premises Licence, or the variation of an existing Premises Licence, would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area, unless the Applicant can demonstrate within their Operating Schedule, that there will be no negative cumulative impact on one or more of the Licensing Objectives. For example, while a large nightclub or high capacity public house, or takeaway might add to problems, a small restaurant or theatre may not. It is important to remember if no Representations are received for an application within the Saturation Zone Cumulative Impact Area the application must be granted, without the need for a hearing.

It would normally not be justifiable to adopt a Special Policy just on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the Premises. A Special Policy will address the impact of a concentration of many Licensed Premises selling alcohol for consumption on and off the Premises, which may give rise to large numbers of people who have been drinking alcohol on the streets in a particular area.

Where cumulative impact is identified, the problems are not the responsibility of any one Premises, but are the result of a number of premises trading in the same, defined, area.

Although this is a specific part of the adopted Policy, it will be subject to regular review and formal reconsideration every five three years, as with the Licensing Statement of Principles. If it is clear that the original difficulties highlighted have been dealt with, possibly by other initiatives or Policies so that it is no longer necessary, it may be dispensed with.

Factors considered in adopting and continuing a special policy

Devon and Cornwall Police in conjunction with Torbay Council have expressed serious concern in relation to crime and disorder and public nuisance incidents in Torquay Town centre both historically under the old licensing regime and following the implementation of the Licensing Act 2003.

Torbay Council considered analysis of crime data provided by Devon and Cornwall Police. This data was for calendar years of 2009, 2010, 2013 and 2014 with comparisons of the two earlier years to that of the two latter years. Data was mapped to analyse offences falling within the CIA. This analysis found that while overall crime had fallen by 6% in the CIA, the volume of violent crime in the area had increased by more than 50%. Violent crime accounting for 29% of all crime in the CIA in 2013 and 2014. The CIA also accounted for a similar proportion of Torbay's overall crime as it had done in 2009 and 2010.

There is a well established link between alcohol and violence and data from the Assault Related Injuries Database ARID (collected from assault victims attending A&E) in recent years has found that the peak time for assaults in Torbay being late night/early morning and alcohol was a factor in most of these assaults. The centre of Torquay was the main hotspot.

Devon and Cornwall Constabulary had collated statistical data which described an increase in reported crime and disorder which corresponded to an increase in the number and duration of late night licences in Torquay Town centre. The nuisance and disorder particularly arises from customers of Licensed Premises located in the special saturation policy area.

This previously recorded increase in crime and disorder has shown a decrease over the last 3 year period in parts of the CIA, largely due to successful joint working with all interested authorities and business premises along with Town Centre CCTV, the introduction of an Order prohibiting the public consumption of alcohol in the Town Centre and the use of multi-agency licensing inspections. This is a welcome but managed trend which the Licensing Authority expects to continue by adhering to the current CIA.

The problems of anti-social behaviour from a number of late night Licensed Premises still continues, most of which are 'drink-led businesses', and is further exacerbated by various other risk factors such as the location of late night take-away Premises, the position of taxi ranks and the absence of other complementary Premises, e.g. restaurants, cafes, family venues and theatres.

The introduction of the CIA has not precluded applications for new Premises Licences or Variation to existing Premises Licences premises in the town centre. It has focused attention particularly on the promotion of the Licensing Objectives relating to crime and disorder and public nuisance. As a result the incidence of crime and disorder has stabilised and Torbay Council and the Devon and Cornwall Police firmly believe that there is an ongoing need for a Special Saturation Policy, in this area as the number of violent crimes has increased and the area is responsible for a similar proportion of crime as in 2009 and 2010.

Torquay Town Centre is subject to considerable re-development both currently and over the coming years. Ongoing development will increase both the urban population of Torquay Town Centre and potentially the number of late night commercial Premises. It is accepted that the re-development will change the character of Torquay Town Centre in time. However it is imperative that the Council protect both residents and businesses against the potential growth of anti-social behaviour and crime and disorder.



Appendix one

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Appendix Two – Scheme of Delegation

The full **scheme of delegation** can only be amended by the Licensing Committee and is set out below: -

Matter to be dealt with	* Full Committee	Sub Committee	Officers
Application for personal licence		If an objection made	If no objection made
Application for 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
Application for transfer of premise licence.		If a Police objection	All other cases
Applications for interim authorities.		If a Police objection	All other cases
Application to review premises licence/club premises certificate.		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases
Decision whether to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a Police or Environmental Health objection to a temporary event notice.		All cases	
Determination of a Police or			All cases

Environmental Health objection to a late temporary event notice.			
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* Full committee may deal with all Sub-Committee matters.

Appendix Three – Supplementary Information on Licensing Objectives

Prevention of Crime and Disorder (Section 3.1 (viii), (ix) and (x))

Risk assessment for the provision of SIA door staff

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 staff for longer periods of the evening than other areas. This may be particularly true of night time economy areas, which includes the Cumulative Impact Area. 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 Licensing Authority. However it is recommended that two SIA stewards are employed for the first 100 customers, and thereafter one additional steward is employed for each additional 100 customers. a minimum of one supervisor per seventy five customers be used. Consideration also needs to be given to the ratio of male and female door supervisors which are appropriate for particular Premises/events.

Register of SIA door staff

Impose, as appropriate, a requirement for keeping of a daily Premises register of employed SIA registered door stewards and this register to be kept for a minimum of 12 months, and be available for inspection by any authorised officer of the Licensing Authority or Police body. 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

Impose, as appropriate, an incident log. The Premises incident log shall record all calls, whether in person or via alternative communication (e.g. email, in writing) made to the Premises where there is a complaint made by a resident or neighbouring Premises of noise nuisance or anti social behaviour by persons attending or leaving the Premises. The incident log shall record the details of the caller, time and date of the call/ visit and the incident referred too along with any action or proposed action/s taken to resolve the issue complained of. The incident log will also record all incidents involving the use of force by staff or SIA registered door supervisors in the refusal of entry to or the ejection of patrons from the Premises. The details of any registered SIA registered door supervisors involved in the incident shall be recorded including their badge number.

Public Safety (Section 2.2)

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 Licensing 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 Licensing Authority will, when relevant representations are received from the Fire Authority, consider the implications relating to fire safety for each individual application for, or Variation to, the Premises Licence.

Prevention of Public Nuisance (Sections 4.4 and 4.5)

General consideration

Licensed premises have a significant potential to impact adversely on communities through public nuisance which can arise through their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and businesses from adverse impact arising out of the operation of licensed premises.

The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise and disturbance, light, odour, litter and anti-social behaviour.

This authority expects applicants for premises licences and club premises certificates to have made relevant enquiries about the local area and prepare their operating schedule on the basis of a risk assessment of the potential sources of nuisance posed to the local community by their intended operation. The operating schedule should demonstrate an understanding of the level of risk of nuisance and include positive proposals to manage any potential risks.

The Licensing Authority will presume against the grant of new Premises Licences or Licence Variations 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, where the Applicant has not properly considered the issue of nuisance and where appropriate sought advice from those with expertise in this field, in order to alleviate any concerns arising.

There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable

Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.

It is clearly not possible to lay out an exact position, as each circumstance will be different and each application must be considered on its own merits.

Furthermore, where relevant representations have been received, activities which are likely to generate significant noise may not be allowed at any time, unless adequate mitigation measures are incorporated in to the Premises and included within the Operating Schedule.

Consideration must be given to the following, though this is not an exhaustive list

- Type of licensable activity. For example live music is likely to generate significantly more noise than most other activities
- 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?
- How customers behave when they leave the premises, for a smoke, to make phone calls, to catch a taxi or to walk home
- Where are the smoking areas situated?
- Background noise levels. The background levels of noise in the night time economy areas will generally be higher than in residential areas, and those levels will vary depending on whether premises are on busy roads or in quiet residential streets.
- Patron's use of exterior beer gardens or smoking areas, including the street, and it's potential impact of noise nuisance on nearby residents and businesses.
- Where licensed premises exterior areas are located, supervision of those areas, collection of drinking vessels and cutlery and closing times.

In most case this will be Some of this is may be obvious to the Applicant. However where the application is expected to be contentious or noise problems already exists, expert advice should be sought. However some of it may need expert advice. Where this maybe anticipated then either a consultant's report should be submitted as part of the application, or a condition added that advises that this will be done to the Responsible Authorities' satisfaction before the activity starts.

If a premise licence is granted for an area that hosts one off events, the Authority and applicant will have regard to the cumulative of multiple one off events and how noise may affect nearby residents and business.

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 the Responsible Authority.

Torbay Council therefore commits to addressing these concerns where applications for review are made, and should any Premises be causing these types of problems, they can expect the presumption that Torbay council will seek to reduce these activities and operational hours in a similar way to new or Variation Applications.

In cases where a premises has benefited from the deregulation of live and recorded music and the operator creates a nuisance to its neighbours, Torbay Council will seek a review of the premises licence to remove the exemption under the live music act.

Protection of Children from Harm (Section 3.4(e) & (g))

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-related sales
- Evidence of training reviews carried out as and when appropriate
- A refusals register when service of alcohol is declined to those persons unable to provide proof of age.

Under 18 discos in licensed premises

Good practice would include the following:

- These events should finish no later than 23.00hrs (11.00pm) after which there will be a 30 minute period before the premises nightclub re-opens to over 18's
- The Police shall be notified in writing or email at least (minimum) 14 days prior to the proposed event.
- At least 4 SIA door supervisors must be employed throughout the event, which shall include at least 1 female supervisor. All supervisors will have undergone a Criminal Records Bureau check.
- All alcohol will be locked away and/or obscured from view.

- All gaming machines with prizes and cigarette machines 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.

Appendix Four – Mandatory Conditions

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

All supplies of alcohol

1. No supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

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

Exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.

3. Where

(a) The film classification body is not specified in the licence, or

(b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c39) (authority to determine suitability of video works for classification)

Door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

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

2. But nothing in subsection 1. Requires such a condition to be imposed:

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or

(b) in respect of premises in relation to:

(i) Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising films or under a gaming licence, or

(ii) Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section:

(a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act,

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Age verification policy

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

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

3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

Permitted price

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

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

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

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

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

where

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

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

- (i) the holder of the premises licence.
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

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

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

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

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

Irresponsible drinks promotions

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

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

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

Alcoholic drink measures

1. The responsible person must ensure that;

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

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

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

2 Mandatory condition: exhibition of films

(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where-

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

3 Mandatory condition: door supervision

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

(2) But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section-

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

4. Mandatory Condition: Irresponsible drink promotions

(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

5. Mandatory Condition: Irresponsible drink promotions

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

6. Mandatory Condition: Free tap water

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

7. Mandatory Condition: Age Verification Policy

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

8. Mandatory Condition: Drinks measures

The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Agenda Item 6

Appendix 2

Cumulative Impact Area (CIA) Crime Analysis

Notes on data

- Analysis was undertaken using crime data for 2009, 2010, 2013 and 2014 calendar years. Data was grouped for each 2 year period.
- Non notifiable offences of breaches and failures relating to the criminal justice system were excluded eg fail to surrender for bail.
- Crime volumes were similar for the 2 periods and the percent of crimes with no geographic reference (ie no Easting/Northing) was 6% for each period.
- Data with Eastings and Northings was mapped and the crimes in the exclusion zone were counted and are reported below.

Summary of total crime and blank GIS references

	Crimes	Blank GIS
2009&2010	21962	1337
2013&2014	21893	1273

Crime changes

- In 2009/2010 crimes in the CIA accounted for 17% of mappable crimes, in 2013/2014 it was similar at 16%.
- Overall crime in the CIA was 6% lower in 2013 and 2014 compared to 2009 & 2010, however there were some notable differences between offence groups.
- Of particular note is the level in violent crime, with violence 53% higher in 2013/2014. This was mainly due to an increase in violence without injury.
- Violence accounted for 29% of crime in the CIA compared to 18% in 2009/2010.

CIA crime by crime type

	2009-2010	2013-2014	Diff	% difference
Burglary	125	125	0	0%
Criminal Damage	290	279	-11	-4%
Non Notifiable	404	251	-153	-38%
Other Offences	77	26	-51	-66%
Other Theft	722	569	-153	-21%
Possession of Drugs	276	235	-41	-15%
Possession of Weapons	38	19	-19	-50%
Public Order Offences	256	251	-5	-2%
Robbery	17	23	6	35%
Sexual Offences	31	32	1	3%
Shoplifting	539	475	-64	-12%
Trafficking of Drugs	32	21	-11	-34%
Vehicle Offences	99	48	-51	-52%
Violence against Person	621	950	329	53%
Grand Total	3527	3304	-223	-6%