



Wednesday, 4 May 2016

LICENSING COMMITTEE

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

Thursday, 12 May 2016

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

Members of the Licensing Committee will be determined at the Annual Council Meeting
on 11 May 2016

A prosperous and healthy Torbay

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

Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

LICENSING COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the 2016/2017 Municipal Year.
2. **Apologies**
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Appointment of Vice-Chairman/woman**
To appoint a Vice-Chairman/woman for the 2016/2017 Municipal Year.
4. **Minutes** (Pages 4 - 5)
To confirm as a correct record the Minutes of the meeting of this Committee held on 18 February 2016.
5. **Declarations of interest**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
6. **Urgent items**
To consider any other items that the Chairman decides are urgent
7. **Hackney Carriage Tariff** (Pages 6 - 10)
An application has been received to increase the Hackney Carriage Tariff. This is to consider whether the Licensing Authority supports this application and advertises the potential increase.

8. **Delegated decision report - Licensing Act 2003** (Pages 11 - 13)
To note a report on the decisions made by officers under delegated powers.
9. **Delegated decision report - Gambling Act 2005** (Pages 14 - 16)
To note a report of decisions made by officers under delegated powers in respect of the Gambling Act 2005.
10. **Establishment of Licensing Sub-Committee** (Pages 17 - 19)
To consider a report that seeks to establish a Licensing Sub-Committee to deal with all matters in connection with licensing applications.



Minutes of the Licensing Committee

18 February 2016

-: Present :-

Councillor Doggett (Vice-Chair)

Councillors Barnby, Brooks, Cunningham, Ellery, King, Stocks, Stubbley, Sykes, Thomas (D) and Tolchard

19. Apologies

Apologies for absence were received from the Chairman, Councillor Manning (whereupon the Vice-Chairman Councillor Doggett to the Chair) and Councillor Parrott.

20. Minutes

The Minutes of the meeting of the Licensing Committee held on 12 November 2015 were confirmed as a correct record and signed by the Chairman, subject to the inclusion of Councillor Sykes being present at the meeting.

Councillor King explained that there had been problems with IT and that the appointment for the meeting on 12 November had been taken out of some of the Members of the Committee's diaries which had affected the level of attendance at this meeting.

21. Pavement Cafe Policy 2016-21

The Committee considered the submitted report which set out the Pavement Café Policy 2016-21, which had been updated following the transfer of the licensing of Pavement Cafés from the Highways Team to the Licensing Team from 16 February 2016.

The Public Protection Officer outlined the Pavement Café Policy and circulated a revised flow chart in respect of Appendix 2 of the Policy (page 37) at the meeting. Members noted that since publication of the agenda the document had been tidied up in terms of spelling and formatting and that the final published document would reflect these changes.

Resolved:

That the Pavement Café Policy 2016-21 as set out in Appendix 2 to the submitted report, with the amended flow chart in respect of Appendix 2 to the Policy circulated at the meeting, be approved.

22. Hackney Carriage and Private Hire Licensing Policy 2016

Members received the submitted report which set out amendments to the Hackney Carriage and Private Hire Licensing Policy 2012. The main changes related to the timescale for drivers to obtain a Driving Standards Agency (DSA) Practical Driving Test; changes or additions to conditions relating to smoking in vehicles and E and Vapour Cigarettes; and changes to the Policy to reflect that taxi licensing is now an on line service.

Members noted that further work would be carried out on the Policy in respect of wheelchair access which will be brought back to Members in due course.

Resolved:

- (i) that the changes to the Hackney Carriage and Private Hire Licensing Policy 2012, as set out in Appendix 1 to the submitted report, including the delegation to revoke a licence if the criteria in 5.10 of the Policy is met, be approved;
- (ii) that the Environmental Health Manager (Commercial) be requested to consider making it clear at the application stage that the applicant must apply and obtain a Driving Standards Agency (DSA) Practical Driving Test as a condition of any licence granted; and
- (iii) that the Environmental Health Manager (Commercial) be requested to explore options to roll out the requirement to obtain Driving Standards Agency (DSA) Practical Driving Test to existing drivers in the future (for example via renewals).

Chairman/woman

Agenda Item 7



Public Agenda Item: **Yes**

Title: **Hackney Carriage Tariff Increase**

Wards Affected: **All**

To: **Licensing Committee** On: **12 May 2016**

Contact Officer: **Steve Cox**

☎ Telephone: **01803 208034**

✉ E.mail: **Steve.cox@torbay.gov.uk**

1. What we are trying to achieve

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

2. Recommendation(s) for decision

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

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

2.3 In the event that no objections are received, the new tariff will take effect from the 1st July 2016.

3. Key points and reasons for recommendations

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

3.2 A letter has been received dated the 17th March 2016 from the Torbay Licensed Taxi Association requesting that an increase be considered in the current year. Although the Torbay Licensed Taxi Association represents many in the Hackney Carriage trade, a significant number are not members of the Association.

3.3 It will be necessary to advertise the proposals by way of Public Notice for 14 days and in the event that objections are received, these responses must be considered by the Licensing Sub-Committee before any increase can take effect. If no objections are received, the new fares tariff will commence from 1st July 2016.

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 Under the terms of the Local Government (Miscellaneous Provisions) Act 1976, a Local Licensing Authority may determine the maximum level of charges to be levied by all Hackney Carriages operating under its control. Fares have been so determined for many years, with regular reviews.
- A1.2 A letter has been received dated the 17th March 2016 from the Torbay Licensed Taxi Association requesting that an increase be considered in the current year. This is set out in correspondence attached as Appendix 1. Although the Torbay Licensed Taxi Association represents many in the Hackney Carriage trade, a significant number are not members of the Association.
- A 1.3 The proposed request is that, Tariff 1 journeys be charged at £3.00 for the first 470 yards (430 metres) or part thereof. This is an increase in the initial charge from £2.70 to £3.00. Tariff 1 is applicable for all hiring's made between 7 am and 11 pm on any day except Sundays and Bank Holidays.
- A1.4 Tariff 2 journeys to be charged at £3.30 for the first 470 yards (430 metres) or part thereof. This is an increase in the initial charge from £3.00 to £3.30. Tariff 2 relates to journeys at all other times, including night times, Sundays, Bank Holidays, Christmas Eve and New Year's Eve.
- A1.5 The last increase in fares was agreed on the 23rd May 2013 and came in to force on 1st July 2013. Details of the current charges are shown in Appendix 2.
- A1.6 It will be necessary to advertise the proposals by way of Public Notice for 14 days and in the event that objections are received, these responses must be considered by the Licensing Sub-Committee before any increase can take effect. If no objections are received, the new fares tariff will commence from 1st July 2016.
- A1.8 There is no right of appeal to the decision.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no significant risks.

A3. Options

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

A4. Summary of resource implications

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

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

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

A6. Consultation and Customer Focus

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

A7. Are there any implications for other Business Units?

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

Appendices

Appendix 1 Copy of the Tariff increase request letter dated 17th March 2016 from Torbay Licensed Taxi Association

Appendix 2 Summary of Current Charges from 1st Jul 2013

Documents available in members' rooms

None

Background Papers:

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

None

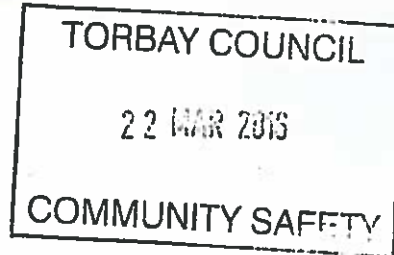
TORBAY LICENSED TAXI ASSOCIATION

AFFILIATED TO NATIONAL TAXI ASSOCIATION

Secretary:
T

17 March 2016

Mr Steve Cox
Principal Licensing Officer
Environmental Health Manager
% Town Hall
Castle Circus
Torquay
TQ1 3DR



Dear Mr Cox

PROPOSAL FOR TARIFF INCREASE

At the Annual General Meeting of Torbay Licensed Taxi Association held at Preston Conservative Club on 29 February 2016 it was proposed and carried that a tariff increase be requested as follows:

Tariff 1

DISTANCE shall be charged at
£3.00 for first 470 yards (430 meters) or part thereof.

Tariff 2

DISTANCE shall be charged at
£3.30 for first 470 yards (430 meters) or part thereof.

This represents a 30 pence increase on the initial charge for tariff 1 and tariff 2. There are no other changes to the tariff proposed. Given that there has been no increase in the tariff since July 2013 we consider this proposed increase to be modest and help improve profitability for short distance journeys.

Thanking you in the knowledge you will forward this proposal to the Licensing Committee for their kind consideration.

Yours sincerely



Jud Boyle, Chairman: Torbay Licensed Taxi Association

**Existing Maximum Hackney
Carriage Fare Scale as approved
with effect from 1st July 2013:**

Tariff 1 – initial charge of £2.70 for the first 470 yards (430 metres), or part thereof, then 15p for each subsequent 135 yards (123 metres), or part thereof, and waiting time to be charged at 15p for each 40 seconds;

Tariff 2 – Initial charge of £3.00 for the first 470 yards (430 metres), or part thereof, then 20p for each subsequent 135 yards (123 metres), or part thereof, and waiting time to be charged at 18p for each 40 seconds; and

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



Public Agenda Item: **Yes**

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

Wards Affected: **All**

To: **Licensing Committee** On: **12th May 2016**

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

1. What we are trying to achieve

- 1.1 To inform Members of the decisions taken in relation to Licensing Act 2003 applications by the Executive Head Community Safety under delegated powers.
- 1.2 To inform members of Torbay Council's response to the Governments Personal Licences consultation.

2. Recommendation(s) for decision

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

3. Key points and reasons for recommendations

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

For more detailed information on this proposal please refer to Appendix A.
Frances Hughes
Assistant Director Community and Customer Services

Appendix A – Supporting information to Report

A1. Introduction and history

A1.1 The Licensing Act 2003 came into force on the 24th November 2005. On the 31st March 2016 Torbay Council had 798 Premises Licences/Club Premises Certificates; this is a slight decrease on 6 months earlier, but fits within the usual seasonal pattern. Up until 31st March 2016 Licensing Committee has dealt with 571 premises hearings, of which 2 were between 1st October 2015 and 31st March 2016. Additionally up to 31st March 2016, 3119 Personal Licences had been issued, of which 74 had been issued between 1st October 2015 and 31st March 2016.

A1.2 From 1st October 2015 and 31st March 2016, Torbay Council has dealt with the following applications under the Licensing Act 2003.

	Total
Premises/Club Premises Applications – New	8
Premises/Club Premises Applications – Variations	9
Premises/Club Premises Applications – Minor Variations	8
Personal Licences	74
Hearings (Licensing Committee/Sub-Committee)	2
Appeals (to Magistrates Court)	0
Temporary Event Notices	122
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Transfers of Premises Licences/Club Premises Certificates	32
Transfers of Designated Premises Supervisors	71

A1.3 The number of applications, being received by the Licensing and Public Protection Team was 25 compared to 39 in the previous 6 months, though the reduction was in minor variations.

A1.4 The number of Personal Licences issued decreased from 96 to 74. While the number of Temporary Events Notices (TENs), showed an increase compared to the last winter period from 88 up to 122.

A1.5 There has been no appeals and no reviews during the period. There have been 27 appeals in total, 10 arising from Review decisions.

A1.6 Transfers of Licences and Designated Premises Supervisors variations showed little change.

A1.7 The general picture is therefore still a fairly static.

A1.8 The Local Government Association has undertaken a costs review of the Licensing Act 2003, and Torbay Council has submitted information to them on our costs of administering the Licensing Act 2003.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no risks associated with this report.

A3. Options

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

A4. Summary of resource implications

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

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

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

A6. Consultation and Customer Focus

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

A7. Are there any implications for other Business Units?

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

Annexes

None

Documents available in members' rooms

None

Background Papers:

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

None

Agenda Item 9



Public Agenda Item: **Yes**

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

Wards Affected: **All**

To: **Licensing Committee** On: **12 May 2016**

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

1. What we are trying to achieve

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

2. Recommendation(s) for decision

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

3. Key points and reasons for recommendations

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

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

Frances Hughes
Assistant Director Community and Customer Services

Appendix A – Supporting information to Report

A1. Introduction and history

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

A1.2 From 30th April 2007, Torbay Council became responsible for the administration and issuing of Premises Licences and UFEC's. Below are the applications dealt with between 1st October 2015 and 31st March 2016.

	Total
Casino Premises Licences – New	0 (1)
Casino Premises Licences – Variation	0
Bingo Premises Licences – New	0 (8)
Bingo Premises Licences – Variation	0
Betting Premises Licences – New	0 (18)
Betting Premises Licences – Variation	0
Adult Gaming Centre Premises Licences – New	2 (18)
Adult Gaming Centre Premises Licences – Variation	0
Family Entertainment Centre Premises Licences – New	0 (3)
Family Entertainment Centre Premises Licences – Variation	0
Unlicensed Family Entertainment Centre Gaming Machine Permit – New	2 (20)
Temporary Use Notices	0
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Hearings (Licensing Committee/Sub-Committee)	0
Appeals (to Magistrates Court)	0

The numbers in brackets are the total number of each type of Premises Licences issued. There have been 2 applications for Premises Licences, both for Adult Gaming Centres, though one new application replaced two current ones, so the number ultimately remained the same. There were also two applications for Unlicensed FEC's, which are arcades with only Category D machines, and one surrendered. One previous UFEC was also surrendered, so again the number

remained the same.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no risks associated with this report.

A3. Options

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

A4. Summary of resource implications

A4.1 There is no significant additional resource implications from routine Gambling Act work.

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

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

A6. Consultation and Customer Focus

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

A7. Are there any implications for other Business Units?

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

Annexes

None

Documents available in members' rooms

None

Background Papers:

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

None



Title: **Establishment of Licensing Sub Committee**

Wards Affected: **All Wards**

To: **Licensing Committee** On: **12 May 2016**

Key Decision: **No**

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

Contact Officer: **Lisa Antrobus**

☎ Telephone: **01803 207064**

✉ Email: **Lisa.antrobus@torbay.gov.uk**

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

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

2. Recommendation(s) for decision

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

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

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

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

3. Key points and reasons for recommendations

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

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

Anne-Marie Bond

Assistant Director of Corporate and Business Services

Supporting information to Report

A1. Introduction and history

A1.1 The Licensing Act 2003 (section 6(1)) states that “each licensing authority must establish a licensing committee consisting of at least ten but not more than fifteen members of the authority”. At the meeting of the Council held on 16 December 2004 (minute 425/12/04 refers), Members considered Report Env/61/04 setting out the recommendations of Licensing Working Party in relation to the new licensing arrangements. The Council agreed to establish a committee comprising 15 Members to carry out the licensing functions of the Council.

A1.2 The Act also provides for the establishment of one or more sub-committees (Section 9(1)), consisting of 3 members of the Committee. The committee may arrange to delegate any of its functions to the sub-committees, and the sub-committees may in turn delegate the functions concerned to an officer of the licensing authority (subject to certain exemptions).

A1.3 In order to expedite the Licensing Authority’s functions, it would be preferable for all new and existing licensing functions of the Council to be delegated to sub-committees. The Licensing Committee would therefore in practice only meet approximately twice a year to consider:

- Regular reports on decisions made by officers;
- Any information it wishes to pass to the Development Control Committee;
- Reports on the needs of the local tourist economy; and
- Reports on the local employment situation
- Reports on changes to licensing policy e.g. Licensing, Gambling, Taxi etc.

A1.4 The sub-committee would therefore deal with the majority of licensing matters. Given the frequency of meetings of the sub-committee, it may not always be possible to secure membership which is politically balanced. It is proposed that the composition of the sub-committee should not be governed by political balance. Any decision to waive the political balance will require a resolution of the Licensing Committee with no Member voting against.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

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

A3. Options

A3.1 It is the intention that the sub-committee would be appointed by the Licensing Committee. The sub-committee does not have to have a fixed membership, providing all three of the Members are drawn from the parent Licensing

Committee. The Council could determine to appoint the sub-committees.

A4. Summary of resource implications

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

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

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

A6. Consultation and Customer Focus

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

A7. Are there any implications for other Business Units?

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

Appendices

None

Documents available in members' rooms

None

Background Papers:

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

Licensing Act 2003

Gambling Act Policy/Statement of Principles