



# Devon & Cornwall Police

Building safer communities together

Licensing Team  
Torbay Council  
C/O Torquay Town Hall  
Castle Circus  
TORQUAY  
TQ1 3DR

Licensing Department East  
Devon and Cornwall Constabulary  
Force Headquarters  
EXETER  
EX2 7HQ

Telephone: 01392 452225

15 January 2014

Dear Sir/Madam

**Unit 4, Longpark, 163 Newton Road, Torquay, TQ2 7AL**

I refer to an application for the Grant of a New Premises Licence in respect of premises at the above location, submitted by Mr Richard Abbotts of Krates Ltd. This application has been made to allow the business to operate as an Alcohol Delivery Service from this address.

For your information Krates Ltd currently operates from licensed premises known as Office 5, based at Dainton Self Storage Yard, Torre Station Yard, Torquay, TQ2 5DD. The licence in respect of that premises was granted on 13 July 2012. In respect of alcohol delivery services I would draw your attention to the fact that the premises licence relates to the premises where the alcohol is appropriated to the contract (Section 190 Licensing Act 2003) but the alcohol can be delivered at any location, and I am aware that Krates Ltd currently deliver within the Torbay and Teignbridge areas. Having discussed this application with Mr Abbotts he has indicated that he has made this new application due to the premises being considerably larger and it is his intention to surrender the existing licence at Dainton Self Storage Yard should this application be successful.

Additionally, on 17 December 2013 Mr Roy Light, a Barrister at St John's Chambers, delivered a presentation at an Institute of Licensing training seminar concerning alcohol delivery services, during which he outlined numerous conditions to be considered in respect of this type of licence. Unfortunately my Police Licensing Officer, Mrs Julie Smart, was unable to attend this seminar, however she has been forwarded a copy of his presentation which is attached for your perusal.

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[www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk)



The Government Standard

Having considered the application, and the document produced by Mr Light, the police make the following representation:

1. The police have concerns around the amount of alcohol and cash that could be carried in delivery vehicles, particularly during the hours of midnight and 0700 hrs, and whether these vehicles could be the target of criminal activity. For your information, crime FT/13/7552 relates to the aggravated taking of a vehicle belonging to Krates Ltd at approximately 0230 hrs on 3 November 2013 from Warberry Vale, Torquay. This resulted in a car chase from that location, which culminated with a further incident on The Strand, Torquay. This matter is currently being investigated by the police.

In order to alleviate our concerns, the police request that a suitable condition restricting the maximum amount of cash and alcohol that can be carried on the vehicle at any one time is imposed on the licence, as follows:

A maximum value of alcohol and cash not exceeding £ ? (this figure to be decided at the hearing once you have had the opportunity to discuss this matter fully with the applicant and my Police Licensing Officer) can be carried on the vehicle at any time.

The police also request the following conditions be imposed:

2. All staff responsible for the delivery of alcohol to customers shall complete and pass the BIIAB Level 1 Award in Responsible Alcohol Retailing Course within 3 months of the commencement of their employment.
3. Alcohol will only be delivered to the person who placed the order and whose name appears on the credit/debit card (if used).
4. Delivery will be refused if the driver considers the person receiving the delivery to be under the influence of alcohol or drugs.
5. A refusals book shall be kept in each delivery vehicle and all entries shall be transferred to a main record held within the premises after each tour of duty. All refusals books shall be available for inspection by the police or members of the local authority licensing team at any reasonable time and all records shall be kept for a minimum of 12 months.
6. Customers to be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person under 18.
7. No ID, no sale.

8. A photograph will be taken by the driver of the customer's photo ID on all cash transactions. A record of the photos will be kept on a computer database. Terms and conditions will state that a picture will be taken of the ID provided on cash payments only and that there will be full compliance with the Data Protection Act.
9. The right to refuse the sale of alcohol must be in the terms and conditions.
10. All licence conditions to be part of the Terms and Conditions which must be displayed on the website or any other promotional material.


The police consider the above steps are appropriate to ensure that the licensing objectives are met.

Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully




Superintendent C Armes  
LPA Commander



St John's  
CHAMBERS

## Alcohol Delivery Services


**Roy Light**  
St John's Chambers  
[roy.light@stjohnschambers.co.uk](mailto:roy.light@stjohnschambers.co.uk)  
17 December 2013



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### Premises licence


- > usual matters arise in an application
- > may be existing off-licence premises or specialist delivery service
- > licensing objectives
  - public nuisance (if late night or 24 hours)
  - crime & disorder (delivery address/drivers with cash)
  - young people (underage sales)



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### MOBILE, REMOTE, INTERNET AND OTHER DELIVERY SALES

3.7 The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house), unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.




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3.8 The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract.



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It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.



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3.9 Persons who run premises providing 'alcohol delivery services' should notify the relevant licensing authority that they are operating such a service in their operating schedule. This ensures that the licensing authority can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should therefore apply to vary their licence to add this activity to their existing licensable activities.

## Article



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- In particular, it is stated that 'alcohol delivery services' should be mentioned in operating schedules and existing premises licence holders who wish to add delivery services should "apply to vary their licence to add this activity to their existing licensable activities" (3.10). Can this be right? Is the Guidance effectively seeking to add a new licensable activity to sales on and/or off the premises by introducing 'alcohol delivery services'?

## Home Office response



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With regards to the point raised in the article in relation to chapter 3.10 of the statutory guidance on alcohol delivery services, I accept that the wording in this part of the guidance may be slightly ambiguous. As I'm sure you are aware, the list of licensable activities in the Licensing Act 2003 could only be changed by amending the Act itself and this cannot therefore be achieved in the guidance.



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This guidance was written on the basis that a premises which has a licence, but not to serve alcohol, would need to apply for a variation to add the sale of alcohol as a licensable activity if they were intending to additionally operate an alcohol delivery service. Moreover, a premises may already have an existing licence to serve alcohol (for example, a pub or off licence) but if they intend additionally to begin operating an alcohol delivery service, they should make the licensing authority aware of this to ensure appropriate conditions are added to the licence with regards to this additional activity to ensure the promotion of the licensing objectives.



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We expect to lay revised statutory guidance in October this year to support the expected commencement of Early Morning Alcohol Restriction Orders and based on the issues you have raised will consider whether the guidance could be made clearer in the October revision (2012)

## Conditions



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- Alcohol and other goods can only be delivered to a residential address.
- Full address details, including postcode, must be given when placing an order.
- Drivers will not deliver to any person anywhere other than at the residential address given when the order was placed.
- Alcohol will only be delivered to the person who placed the order and whose name appears on the credit/debit card (if used).
- Delivery will be refused if the driver considers the person receiving the delivery to be under the influence of alcohol or drugs.

## Conditions



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- Challenge 25 - if driver consider recipient of alcohol appears under 25 recognised photographic identification requested before any alcohol is handed over.
- Acceptable proof of age shall include identification bearing the customer's photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include FASS approved proof of age card, photo-card driving licence and passport.
- No ID no delivery.



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- Minimum age of 18 for delivery drivers.
- Delivery will also be refused if driver believes the alcohol being purchased on behalf of another person who is not 18.
- Customers to be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person under 18.

conditions?




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- CCTV
- refusal/incident book to be kept in store and in each delivery vehicle
- staff training in alcohol sales
- additional staff/driver training for alcohol delivery service
- training records
- staff/drivers instructed on noise minimisation
- the number of vehicles to be in use at any one time is ???



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- › All licence conditions to be part of the 'Terms & Conditions' which must be displayed on the website or any other promotional material.
- › If delivery is not made for any of the reasons stated above the driver will return the order to the store.
- › The right to refuse the sale of alcohol must be in the terms & conditions.
- › [A refund will be made less a deduction of 10% (with a minimum charge of £10) to cover ordering and delivery charges.]



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- Cash orders will be limited to a maximum of £50 per order.
- Drivers will make only one delivery per trip. Having made a delivery the driver will return to the shop. This will ensure that the driver never has more than £50 cash at any time.
- Cash will be put into the glove box of the car which will be locked by a key.
- A photo will be taken by the driver of the customer's photo ID on all cash transactions. A record of the photos will be kept on a computer database. Terms & conditions will state that a picture will be taken of the ID provided on cash payments only and that there will be full compliance with the Data Protection Act.