

Wednesday, 1 December 2021

Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **The Forum, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 9 December 2021** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,



Anne-Marie Bond
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

Together Torbay will thrive

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June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

To confirm as a correct record the minutes of the Extraordinary meeting of the Council held on 4 November 2021.

(Pages 5 - 8)

4. **Declarations of interests**

- (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.)

5. **Communications**

To receive any communications or announcements from the:

- Civic Mayor – this will include a community presentation – Britain in Bloom for Torbay;
- Leader of the Council;
- Overview and Scrutiny Co-ordinator;
- Council's representative on the Heart of the South West Joint Committee; and
- Chief Executive.

6. **Public question time**

To hear and respond to any written questions or statements from members of the public which have been submitted in accordance with Standing Order A24.

(Page 9)

7. **Members' questions** (Pages 10 - 11)
To respond to the submitted questions asked under Standing Order A12.
8. **Thanks to the former Worshipful the Mayor of Torbay and her Escort for their term of office from 2019 to 2021**
The Council to convey its thanks to the former Worshipful the Mayor of Torbay and her Escort and present the former Civic Mayor's badge.

(Note: due to the Covid pandemic, the physical presentation of the former Civic Mayor's badge was unable to take place at the Annual Council meeting.)
9. **Proposed Council Tax Support Scheme 2022/23** (Pages 12 - 21)
To consider the recommendation of the Cabinet on the 2022/23 Council Tax Support Scheme.
10. **Council Tax Base 2022/2023** (To Follow)
To consider a report on the above.
11. **Gambling Act 2005 - Licensing Statement of Principles 2022 to 2025** (Pages 22 - 77)
To consider a report and recommendations of the Cabinet, which seek approval of the Gambling Act 2005 – Licensing Statement of Principles 2022 to 2025.
12. **Decision to opt in to the national scheme for Auditor Appointments with Public Sector Audit Appointment (PSAA) as the 'Appointing Person'** (Pages 78 - 83)
To consider a report that sets out proposals for appointing the external auditor to the Council for the 2023/24 accounts and beyond.
13. **Treasury Management Mid-Year Review 2021/22** (Pages 84 - 102)
To note a report that sets out the Treasury Management decisions made during the first part of 2021/22.
14. **Statutory Officer Appointment - Scrutiny Officer**
To confirm the statutory officer appointment for the Scrutiny Officer.
15. **Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency** (Page 103)
To note the schedule of Executive decisions to which the call-in procedure does not apply.

Meeting Attendance

Torbay Council continues to operate in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social

distancing and other protective measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result, please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting, please contact us to confirm arrangements for your attendance.

Minutes of the Council
(Council decisions shown in bold text)

4 November 2021

:- Present :-

The Worshipful The Mayor of Torbay (Councillor) (In the Chair)
Deputy Civic Mayor of Torbay (Councillor Mandy Darling)

Councillors Amil, Atiya-Alla, Barnby, Brooks, Brown, Bye, Carter, Cowell, Douglas-Dunbar, Dudley, Ellery, Foster, Hill, Johns, Kennedy, Long, Loxton, Mills, Morey, Stockman, Sykes, David Thomas and Jacqueline Thomas

239 Opening of meeting

The Worshipful The Mayor of Torbay opened the meeting with a minute's silence as a mark of respect in memory of Sir David Amess, whose life was tragically cut short on 15 October 2021.

240 Apologies for absence

Apologies for absence were received from Councillors Barrant, Steve Darling, Dart, Howgate, Kavanagh, Law, Barbara Lewis, Chris Lewis, O'Dwyer, Pentney and John Thomas.

241 Minutes

The Worshipful the Mayor of Torbay proposed and Councillor Mandy Darling seconded a motion, which was agreed (unanimously) by the Council as set out below:

the Minutes of the meeting of the Council held on 29 September 2021 were confirmed as a correct record and signed by the Worshipful the Mayor of Torbay.

242 Declarations of interests

The following non-pecuniary interests were declared:

Councillor	Minute Number	Nature of interest
Councillor Kennedy	243	Chair of Broadsands, Churston and Galampton Neighbourhood Forum

Councillor Mills

243

Vice-Chair of Broadsands, Churston
and Galmpton Neighbourhood Forum**243 Application to Form a New Neighbourhood Forum and Area for Broadsands, Churston and Galmpton**

The Council considered the submitted report on an application to create a new Neighbourhood Area and Forum comprising the villages of Broadsands, Churston and Galmpton and surrounding areas. It was noted the proposed new Neighbourhood Area consisted of all parts of the Brixham Peninsula Neighbourhood Plan Area which were not within the administrative boundaries of Brixham Town Council.

Councillor Morey proposed and Councillor Long seconded a motion, as set out below:

1. that a new Neighbourhood Area is created covering Broadsands, Churston and Galmpton;
2. that the area is amended in accordance with Option B, as set out in Appendix 2 of the submitted report, that amends the northern boundary of the proposed new Neighbourhood Area to be contiguous with the 2019 Ward Boundary amendments for Churston with Galmpton, to the east of Dartmouth Road (i.e. to exclude Saltern Road, which is now in Goodrington with Roselands Ward);
3. that the Broadsands Churston and Galmpton (BCG) Neighbourhood Forum be designated as the Neighbourhood Planning body ("Qualifying Body") for the Neighbourhood Area approved in 1. and 2. above;
4. that, as a result of 1. above, Brixham Town Council becomes the Qualifying Body for the "parished" area of the town of Brixham only and no longer covers the remaining area of the previously approved Brixham Peninsula Area, with the amended boundary to the area approved, as shown in Appendix 2 of the submitted report, as "Furzeham with Summercombe" and "St Peter's with St Mary's";
5. that, as a result of 2. above, the Paignton Neighbourhood Area be amended, as shown in Appendix 2 of the submitted report, to include the area of Saltern Road up to the boundary between the Goodrington with Roselands ward and the Churston and Galmpton ward;
6. that the Council request that the Forum's Constitution be amended as follows:
 - i) to ensure that Forum executive committee members follow the same Code of Conduct as elected Torbay Council Members;

- ii) to undertake to publish Minutes of forum meetings within a reasonable period; and
- iii) that Section 7.1 of the Forum's Constitution be amended to an absolute minimum of 8 members in attendance for quorum, with the amended text reading

“7.1 For Forum meetings held in public a quorum shall be an absolute minimum of 8 members or 5% of the membership where that would be higher, meeting together at a properly convened and constituted meeting or replying to a properly authorised circular to, or ballot of members.”; and

- 7. that the Council request for clarity that paragraph 3.1.1. of the Forum's Constitution be amended to read: “To **prepare** the Neighbourhood Plan for the Broadsands, Churston and Galmpton Neighbourhood area and to decide how it will be monitored and reviewed, including frequency of review.”

During the debate Councillor David Thomas proposed and Councillor Hill seconded an amendment to the motion as follows:

that consideration of the submitted report be deferred to enable further discussion and to allow full debate of the Conservative Group's concerns.

The amendment was put to the vote and declared lost.

Councillor Morey's and Councillor Long's original motion was then considered by the Council which was determined by recorded vote and agreed. The voting was taken by roll call as follows: For: Councillors Amil, Aitya-Alla, Brown, Carter, Cowell, Mandy Darling, Douglas-Dunbar, Dudley, Ellery, Johns, Kennedy, Long, Loxton, Manning, Mills, Morey and Stockman (17); Abstain: Councillors Barnby, Brooks, Bye, Foster, Hill, Sykes, David Thomas and Jacqueline Thomas (8); and Absent: Councillors Barrand, Steve Darling, Dart, Howgate, Kavanagh, Law, Barbara Lewis, Chris Lewis, O'Dwyer, Pentney and John Thomas (11).

- 1. **that a new Neighbourhood Area is created covering Broadsands, Churston and Galmpton;**
- 2. **that the area is amended in accordance with Option B, as set out in Appendix 2 of the submitted report, that amends the northern boundary of the proposed new Neighbourhood Area to be contiguous with the 2019 Ward Boundary amendments for Churston with Galmpton, to the east of Dartmouth Road (i.e. to exclude Saltern Road, which is now in Goodrington with Roselands Ward);**

3. that the Broadsands Churston and Galmpton (BCG) Neighbourhood Forum be designated as the Neighbourhood Planning body (“Qualifying Body”) for the Neighbourhood Area approved in 1. and 2. above;
4. that, as a result of 1. above, Brixham Town Council becomes the Qualifying Body for the “parished” area of the town of Brixham only and no longer covers the remaining area of the previously approved Brixham Peninsula Area, with the amended boundary to the area approved, as shown in Appendix 2 of the submitted report, as “Furzeham with Summercombe” and “St Peter’s with St Mary’s”;
5. that, as a result of 2. above, the Paignton Neighbourhood Area be amended, as shown in Appendix 2 of the submitted report, to include the area of Saltern Road up to the boundary between the Goodrington with Roselands ward and the Churston and Galmpton ward;
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Agenda Item 6

Meeting of the Council, Thursday, 9 December 2021
Public Question Under Standing Order A24

Public Question (1) from Nigel Hollyhead to the Cabinet Portfolio Holder for Infrastructure, Environment and Culture (Councillor Morey)	Please will the Council reinstate 'No Cycling' signs on Fore Street, Brixham?
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Questions Under Standing Order A12

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

First Round

<p>Question (1) from Councillor O'Dwyer to Leader of the Council (Councillor Steve Darling)</p>	<p>Can the Cabinet Member for Community and Corporate Services provide on a ward by ward basis the schemes progressed under the Community Ward Fund specifically:</p> <ul style="list-style-type: none"> • what works have been undertaken and the cost difference between the expected cost and the final cost e.g Wellswood were quoted £600+ VAT for repainting 3 benches; and • what requested works are still outstanding and how much each ward and ward partnership will still have to use.
<p>Question (2) from Councillor Pentney to the Council's Representative on the Devon County Council – Investment and Pension Fund Committee (Councillor O'Dwyer)</p>	<p>Cop26 saw international agreement to cease investing and move towards a reduction in the investment in fossil fuels. What plans are there for the pension fund that serves Torbay Council employees to similarly disinvest from this sector?</p>
<p>Question (3) from Councillor Atiya-Alla to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>I understand that Torbay Council are looking to replace a 45 year old recycling baler with a new piece of plant. I believe the replacement will cost in the region of £350,000. Can you please advise what carbon reduction impact the new baler will have and any other efficiencies may be garnered from it?</p>
<p>Question (4) from Councillor Mandy Darling to the Cabinet Member for Children's Services (Councillor Law)</p>	<p>I understand that Children's Services were recently shortlisted for an award at the Local Government Chronicle award. Whilst it was disappointing that we did not receive the ultimate award, being shortlisted is an achievement in its own right. What lessons did Children Services learn from participating in this competition?</p>
<p>Question (5) from Councillor Dudley to the Cabinet Member for Adults and Public Health (Councillor Stockman)</p>	<p>Over the last two years, the Council has got a firmer grip on its finances . The Council has made a fund of £250,000 available to invest in our community centres. Surveys were undertaken this summer of our centres. Can you please advise what impact this will have on our cornerstones of our communities?</p>
<p>Question (6) from Councillor Dart to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>Our town centres and sea fronts experienced a phenomenal level of demand this summer, what lessons have been learnt from the support that was required and how are we planning to embed these lessons in the long term?</p>

<p>Question (7) from Councillor Johns to the Cabinet Member for Economic Regeneration, Housing and Tourism (Councillor Long)</p>	<p>It was pleasing a few weeks ago to learn that Torbay Council was successful in its compulsory purchase order for Crossways shopping centre in Paignton. Whilst it may be some weeks away before the local authority take ownership of this eye sore in Paignton, what are we doing to ensure that we hit the ground running when we have full ownership of the site?</p>
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Second Round

<p>Question (8) from Councillor O'Dwyer to the Chairman of the Audit Committee (Councillor Loxton)</p>	<p>Can the Chairman of the Audit Committee provide:</p> <ul style="list-style-type: none"> • a list of the proposed Internal Audits for this financial year; • a list of those that have been completed to date; • the cost/expected annual costs of these audits; • the opinion levels given by the auditors for each subject area and the audit; • the high or medium level risk actions that came out from these reports; • whether the actions have all been agreed by management and subsequently carried out; and • what actions are now overdue from this and previous years internal audit action plans.
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Third Round

<p>Question (9) from Councillor O'Dwyer to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)</p>	<p>COP26 made a number of pledges on future action to tackle climate change. This Council declared a climate emergency in June 2019 what has the Council done since:</p> <ul style="list-style-type: none"> • How much have we reduced our carbon usage as an authority? • How many public electric charging points are there in the bay now and how many are on council sites? • How many electric vehicles does the council currently own? • Have we reduced our total energy use as a council since the emergency was declared? • Prior to the Covid Pandemic what was our household recycling percentage, what was the recycling percentage when the Resource and Waste Management Strategy was approved and introduced and what is our current recycling percentage rate? • Do we still consider the new diesel refuse vehicles we are currently purchasing as a positive climate change action?
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Record of Decision

Proposed Council Tax Support Scheme 2022/23

Decision Taker

Cabinet on 16 November 2021

Decision

That Cabinet recommends to Council:

1. that the Council Tax Support Scheme for 2022/23 be approved;
2. that Council notes the scheme for 2022/2023 includes the standard annual uprating of the personal allowances and premiums. These values take into account the statutory inflationary increase in personal allowances used to calculate entitlement to Council Tax Support. These allowances represent a households basic living needs;
3. that Personal Allowances and Premiums, used to calculate Council Tax Support, are uprated from 1 April 2022 in line with the prescribed Pensioner scheme and national working-age benefits, which are both set by the Government; and
4. that the Chief Finance Officer be given delegated authority, in consultation with the Deputy Leader of the Council and Cabinet Member for Finance and the Cabinet Member for Corporate and Community Services, to make any further adjustments required to the Exceptional Hardship Policy and fund.

Reason for the Decision

The Council has a statutory duty to provide a local Council Tax Support Scheme for working-age households within its area. Pension age households are subject to statutory provisions determined on a national basis that must be incorporated within each authority's local scheme.

Implementation

The Cabinet's recommendations will be considered at the Council meeting on 9 December 2021.

Information

The Council has a statutory duty to provide a local Council Tax Support Scheme for working-age households within its area. Prior to the start of each financial year, the Council must consider whether to revise its scheme or to replace it with a replacement scheme. It must make any revision to its scheme, or apply any replacement scheme, no later than 11 March for the subsequent financial year.

The current scheme needs to be updated each year to take into account the inflationary increase in the personal allowances used to calculate entitlement to Council Tax Support - these allowances represent a households basic living needs. This will ensure the scheme is compliant with the Prescribed Requirements for all local schemes, determined by the Department for Levelling Up, Housing and Communities and also aligned to national working-

age benefits, determined by the Department for Work and Pensions.

At the meeting Councillor Carter proposed and Councillor Cowell seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

It was the intention to introduce an income banded Council Tax Support scheme from April 2021. This was after the proposed implementation from April 2020 which was unfortunately paused due to delays in receiving the required software and the absence of the required reassurances that all system integration work and testing would be completed prior to our deadline for annual Council Tax billing.

With the onset of COVID 19 in early March 2020 and the fundamental impacts this had on the local economy, it was decided to not progress with plans to introduce a banded Council Tax support scheme for 2021/2022. This has been further paused due to the need to accurately model and forecast the impacts of introducing a new format of scheme.

Is this a Key Decision?

No

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None.

Published

19 November 2021

Signed: _____
Leader of Torbay Council on behalf of the Cabinet

Date: 19 November 2021

Meeting: Cabinet
Council

Date: 16 November 2021
9 December 2021

Wards Affected: All Wards

Report Title: Proposed Council Tax Support Scheme 2022/23

Cabinet Member Contact Details: Councillor Christine Carter – Cabinet Member for Corporate and Community Services, Telephone: 07848 829159

email: christine.carter@torbay.gov.uk

Director/Assistant Director Contact Details: Tara Harris, Assistant Director of Community & Customer Service. Email: Tara.harris@torbay.gov.uk

1. Purpose of Report

- 1.1 This report provides members with the background of the current scheme and recommendations for the 2022/23 local Council Tax Support scheme.
- 1.2 Schedule 1A of the Local Government Finance Act 2012 requires local authorities to annually review their local scheme.

NB: Pension Age households are not affected. The DWP retain control of the regulations applied for local authorities to pay Council Tax Support to pension age customers. As pension age claims are protected by legislation, these proposed changes will only affect claims from those of working age:

2. Reason for Proposal and its benefits

We want Torbay and its residents to thrive.

We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.

We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

- 2.1 The Council has a statutory duty to provide a local Council Tax Support Scheme for working-age households within its area. Pension age households are subject to statutory provisions determined on a national basis that must be incorporated within each authority's local scheme
The Council must approve the final scheme by 11 March 2022 for operation by 1 April 2022. The scheme cannot be changed for the financial year.

- 2.2 It is proposed that Personal Allowances and Premiums are uprated from 1 April 2022 in line with the prescribed Pensioner scheme and national working-age benefits, which are both set by the Government.

Failure to make this change would result in a cut in entitlement should there be an increase in household income.

3. Recommendation(s) / Proposed Decision

That Cabinet recommends to Council:

- 3.1 That the Council Tax Support Scheme for 2022/23 be approved.
- 3.2 That Council notes the scheme for 2022/2023 includes the standard annual uprating of the personal allowances and premiums. These values take into account the statutory inflationary increase in personal allowances used to calculate entitlement to Council Tax Support. These allowances represent a households basic living needs.
- 3.3 That Personal Allowances and Premiums, used to calculate Council Tax Support, are uprated from 1 April 2022 in line with the prescribed Pensioner scheme and national working-age benefits, which are both set by the Government.
- 3.4 That the Chief Finance Officer be given delegated authority, in consultation with the Cabinet and the Executive Lead for Customer Services, to make any further adjustments required to the Exceptional Hardship Policy and fund.

Appendices

Appendix 1: Current 2021/2022 scheme - <https://www.torbay.gov.uk/media/16034/torbay-s13a-202122-scheme-final.pdf>

Background Documents

None

Supporting Information

1. Introduction

- 1.1 The current Council Tax Support scheme was approved by members at Full Council in December 2016.
- 1.2 For each financial year, the Council must consider whether to revise its scheme or to replace it with a replacement scheme. Any proposed revisions to the format of the scheme requires a 6-to-12-week public consultation process. It must make any revision to its scheme, or apply any replacement scheme, no later than 11 March for the subsequent financial year commencing 1 April.
- 1.3 Entitlement to Council Tax Support is based on a means test, by taking into consideration a person's income and comparing this with any personal allowances, premiums and disregards to which they may be entitled.
- 1.4 The current scheme needs to be updated each year to take into account the inflationary increase in the personal allowances used to calculate entitlement to Council Tax Support. These allowances represent a households basic living needs.
- 1.5 This will ensure the scheme is compliant with the Prescribed Requirements for all local schemes, determined by the Department for Communities and Local Government and also aligned to national working-age benefits, determined by the Department for Work and Pensions.
- 1.6 For people of working age, the current scheme has the following key elements:
 - All awards are based on 70% of the Council Tax charge for the property. This means that the maximum a working age household can receive is 70% of the Council Tax due. These households have to pay a minimum of 30% of the Council Tax due;
 - No entitlement if working age households have savings over £6,000;
 - Restrict working age households to the equivalent of a Band D property charge and apply the 70% restriction detailed above;
 - A hardship fund is provided for additional financial assistance within the scheme. This is available to households should they be experiencing hardship as a result of their Council Tax Support award.
- 1.7 Under the current scheme pensioners are protected and the level of entitlement for them must remain. Protection will be achieved by keeping in place the existing national rules, with eligibility and rates defined in the Prescribed Pensioners Scheme.
- 1.8 The components used to calculate Council Tax Support consist of the following:
 - **Personal Allowances** - the basic amounts of money the government says a claimant needs to live on. The level depends on the claimant's age and whether they are part of a couple. There are additional allowances for dependent children.
 - **Premiums** - additional amounts added to the personal allowance because of claimant's personal circumstances. The government recognises that it is more

expensive to live with a family or if someone has a disability or caring responsibilities. Extra amounts are added to income based benefits to account for this.

- **Disregards** - the amount of earnings not taken into account when calculating entitlement to benefits. There are standard earnings disregards for singles, couples and lone parents. People in certain groups, such as carers and people with disabilities are eligible for a higher disregard.
- **Non Dependant Deductions** - the amount that is deducted for other people who are 18 or over and live in the household. The deduction rates for non-dependants are set according to their income, as it is assumed that they can make a financial contribution to the household.

2. Options under consideration

- 2.1 It was the intention to introduce an income banded Council Tax Support scheme from April 2021. This was after the proposed implementation from April 2020 was unfortunately paused due to delays in receiving software and the absence of the required reassurances that all system integration work and testing would be completed prior to our deadline for annual Council Tax billing.
- 2.2 Unfortunately, with the onset of COVID 19 in early March 2020 and the fundamental impacts this had on the local economy, it was decided to not progress with plans to introduce a banded Council Tax support scheme for 2021/2022. This has been further paused due to the need to accurately model and forecast the impacts of introducing a new format of scheme, we should only use data taken from a normal 'trading' year – i.e one that has not been adversely affected by the pandemic. This will be reviewed for the 2023/2024 Council Tax Support Scheme.

3. Financial Opportunities and Implications

- 3.1 The Council's requirement to review its Council Tax Support scheme annually must consider both the application of the scheme itself and to take into account the financial implications of its administration.
- 3.2 This report is integral to the revenue budget and Council Tax setting process for 2022-23. The financial and resource implications as well as underlying assumptions are dealt with in that report.

4. Legal Implications

- 4.1 Schedule 1A of the Local Government Finance Act 2012 requires local authorities to consider whether to revise or to replace its scheme each year.

5. Engagement and Consultation

- 5.1 There are no requirements to undertake a public consultation. The scheme does not include any revisions to the format and remains unchanged within its replacement.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 The purchasing or hiring of good and/or services is not relevant for this report.

7. Tackling Climate Change

- 7.1 Tackling climate change is not relevant for this report.

8. Associated Risks

- 8.1 The scheme that will be adopted for 2022/23 is the same as the scheme that was adopted for 2021/22. The reasons for this are it:

- is based on the previous scheme and involves no additional new risk;
- does not disproportionately affect any particular group – disabled persons, single parents, etc;
- presents a very low risk of legal challenge.
- Torbay’s most vulnerable groups will continue to be protected as the scheme will retain the current scheme characteristics
- the continuation of the hardship scheme will also help cushion the effect of the changes and should mitigate any adverse impacts where possible.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	If Personal Allowances and Premiums were not uprated in line with the prescribed pensioner scheme and national working-age benefits		

	residents would effectively have a cut in their entitlement should their income increase.		
People with caring Responsibilities			Protection for those receiving a carers allowance is in line with the old Council Tax Benefit scheme.
People with a disability			Protection for disabled people is in line with the old Council Tax Benefit scheme. Disability benefits, such as Disability Living Allowance, will continue to be fully disregarded as well as the associated personal allowances and premiums that are currently awarded to people with disabilities
Women or men			Although this information is recorded, there is no adverse impact on the grounds of gender. Torbay's scheme is open to applications from persons of any gender and there are no aspects of the scheme which impact in any way on the availability of support to claimants based solely on gender.
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			There is no differential impact
Religion or belief (including lack of belief)			This information is not collected as part of the administration of the Council Tax Support

			<p>Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.</p>
<p>People who are lesbian, gay or bisexual</p>			<p>This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme. This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.</p>
<p>People who are transgendered</p>			<p>This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or</p>

			complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
People who are in a marriage or civil partnership			This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
Women who are pregnant / on maternity leave			There is no differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			There is no differential impact

10. Cumulative Council Impact

10.1 Not applicable for this proposal.

11. Cumulative Community Impacts

11.1 Not applicable for this proposal.

Record of Decision

Gambling Statement of Principles 2022-25

Decision Taker

Cabinet on 16 November 2021

Decision

That Cabinet recommends to Council:

That the Gambling Statement of Principles 2022 to 2025 be approved.

Reason for the Decision

The Licensing Authority is required to publish a statement and to review and re-publish the same, every three years, in order to meet its statutory requirement, as prescribed under Section 349 of the Gambling Act 2005.

Implementation

The recommendation of the Cabinet will be considered at the Council meeting on 9 December 2021.

Information

The Gambling Act 2005 requires Torbay Council, under its role as Licensing Authority, to review and publish a 'Statement of Principles' (the Gambling Policy), every three years. The Statement of Principles outlines the procedures that the Licensing Authority intends to follow in discharging its statutory responsibilities under the Act. The current Statement has been reviewed, with further changes made as a result of public consultation. The refreshed Statement is required to be published, on or before 30 January 2022.

At the meeting Councillor Carter proposed and Councillor Stockman seconded a motion that was agreed unanimously, as set out above.

Alternative Options considered and rejected at the time of the decision

No other options were considered.

Is this a Key Decision?

Yes – Reference Number: I083607

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None.

Published

19 November 2021

Signed: _____ Date: 19 November 2021
Leader of Torbay Council on behalf of the Cabinet

Meeting: Cabinet and Council

**Date: 16 November 2021 and 9
December 2021**

Wards Affected: All

Report Title: Gambling Act 2005 – Licensing Statement of Principles 2022 to 2025

Is the decision a key decision? Yes

When does the decision need to be implemented? 30th January 2022

**Cabinet Member Contact Details: Cllr Christine Carter, (01803) 207313,
Christine.Carter@torbay.gov.uk**

**Supporting Officer Contact Details: Steve Cox, Environmental Health Manager
(Commercial) (01803) 209029, steve.cox@torbay.gov.uk**

1. Proposal and Introduction

- 1.1 The Gambling Act 2005 requires Torbay Council, under its role as Licensing Authority, to review and publish a ‘Statement of Principles’ (*the Gambling Policy*), every three years. The Statement of Principles outlines the procedures that the Licensing authority intends to follow in discharging its statutory responsibilities under the Act. The current Statement was published on 30th January 2019 and therefore, it must be reviewed, consulted upon and re-published, on or before 30th January 2022.
- 1.2 Torbay Council are authorised to issue a ‘Small Casino Premises Licence’. The Act and Codes of Practice issued under the Act with that regard, require Licensing Authorities who are authorised to issue a ‘Small Casino Premises Licence’ to include within their ‘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. The criteria for the greatest benefit test have been revised and simplified within this draft.
- 1.3 The draft ‘Statement of Principles 2022-25’ has been amended to include a number of changes, which have come about over the last three years through amendments to Regulations, Codes of Practice and Gambling Commission guidance, along with the changes highlighted in 1.2 above. In addition to this a few small changes have been made following the recent public consultation, which are included in **Appendix 3**.

2. Reason for Proposal and associated financial commitments

- 2.1 In accordance with the statutory requirement, as prescribed under Section 349 Gambling Act 2005, which requires that the Licensing Authority to publish a Statement and to review and re-publish the same, every 3 years. The Authority has

reviewed its current Policy, undertaken an 8 week public consultation and has prepared a draft 'Statement of Principles 2022-25' which is attached as **Appendix 2** to this report.

- 2.2 The proposals contained in this report will not commit the Council financially in any regard, other than routine staff costs which are drawn from existing budgetary resources. However, should the Authority to decide to launch a Casino Competition, then some additional funding will be required, though this possibility is not included within this report.
-

3. Recommendation(s) / Proposed Decision

That Cabinet recommends to Council:

- 3.1 That the Gambling Statement of Principles 2022 to 2025 be approved.

Appendices

- Appendix 1: Supporting Information and Impact Assessment
Appendix 2: Draft Gambling Statement of Principles 2022 to 2025
Appendix 3: Consultation analysis – Proposed amendments

Background Documents

Gambling Act 2005
[Gambling Act 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Licensing Statement of Principles 2019 to 2022
[Gambling Statement of Principles - Torbay Council](#)

Statutory Guidance issued under the Gambling Act 2005
[Guidance to licensing authorities - Gambling Commission](#)

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>Torbay Council has a statutory responsibility under Section 349 of the Gambling Act 2005 (the Act) to review, consult and to re-publish its Licensing Statement of Principles (the Statement). In doing so it is following the guidance in what needs to be included within that Statement.</p> <p>The process of review, consultation and publication must be completed on or before 30th January 2022.</p>
2.	<p>What is the current situation?</p> <p>The Statement identifies how the Council will perform its role as Licensing Authority in relation to the licensing process for gambling premises, and Permits, issued under the Act.</p> <p>The Licensing Authority has no role regarding the administration and issuing of Operator and Personal Licences. These both fall to the Gambling Commission.</p> <p>The Statement is also required to include the procedures and criteria to be applied should the Torbay Council decide to launch a Small Casino Competition. These have been simplified, following legal advice.</p>
3.	<p>What options have been considered?</p> <p>No other options have been considered as this is a statutory requirement.</p>
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>The Statement ensures clarity as to how the Council will fulfil its role as the Licensing Authority and provides clarification and guidance to businesses and the public alike.</p> <p>Gambling premises are part of the UK culture, particularly in seaside locations, providing they are undertaken responsibly. This Statement assists business to function safely and within the law. It therefore helps to promote two of the priorities, namely thriving people and communities, and a thriving economy.</p>
5.	<p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p>

	<p>One of the three licensing objectives is Protecting Children and other Vulnerable Persons from being Harmed or Exploited by Gambling. The Act and the Mandatory Conditions applied to premises exclude children from most gambling premises, and in premises where they are allowed, excludes them from all areas where higher category gaming machines are located. So effectively they are only allowed in what would be seen as 'seaside' arcades.</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>The Statement lays out how the Council will fulfil its role as Licensing Authority and provides clarification and guidance to businesses and the public alike on what would be expected on business operators. This includes tackling the issues of vulnerability with individuals with gambling problems. This is a shared responsibility with the Gambling Commission, who have this responsibility through a premises Operators Licence.</p>
7.	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>No impact either positive or negative - neutral</p>
8.	<p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>The holders of Premises Licences and future applicants are those that are more directly affected by this Statement. These are businesses and business operators that provide gambling by way of Amusement Arcades, Casinos, Betting and Bingo Premises.</p> <p>The Statement, however, looks to protect the public who may be affected by less reputable operators</p> <p>The following parties have been consulted by Torbay Council, prior to publication of the finalised 'Statement of Principles':</p> <ul style="list-style-type: none"> • The Chief Officer of Police. • One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Authority's area. • One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act. • 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 and South Devon NHS Foundation Trust • Torbay Safeguarding Children's Partnership • Torbay Council: Planning and Community Safety Department

- | | |
|--|--|
| | <ul style="list-style-type: none">• SWISCo Highways Team• Safer Communities Torbay.• Facilities in Torbay assisting vulnerable persons.• Faith groups; via Torbay Interfaith Forum and the Street Pastors.• Brixham Town Council.• English Riviera BID• Torbay Economic Development Company trading as the Torbay Development Agency |
|--|--|

Section 2: Implications and Impact Assessment

9.	What are the financial and legal implications? There are no significant additional resource implications that will derive from the Council discharging its statutory obligations, under the Act, though appeals against Licensing Authority decisions do place some additional burden on resources. This is however the due process of law. There will be potentially some costs, should the authority consider undertaking a process with regard to the Small Casino Licence, however this draft statement does obligate the authority to start this process and that decision would need to be made separately.
10.	What are the risks? The risks are more associated with any failure to review and re-publish the Statement in time, as the effect would be that the Council would have no Policy in place, which effectively would prevent lawful discharge of functions under the Gambling Act 2005, which may lead to legal challenge against the Council and financial penalties being incurred. The risks associated with agreeing the Statement are minimal as it has been reviewed in line with regulatory requirements, which include full consultation and consideration of any comments that are received, as well as having been shared with a QC for his comments. These have been adopted within the revised statement.
11.	Public Services Value (Social Value) Act 2012 Does not apply
12.	What evidence / data / research have you gathered in relation to this proposal? Research and data have been compiled in relation to the Local Area Profiles, though this data is already in the public domain.
13.	What are key findings from the consultation you have carried out? This is included with Appendix 3.
14.	Amendments to Proposal / Mitigating Actions This is included with Appendix 3.

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups The Policy is a review of an existing Policy and therefore there is no change to impact of specific groups. Where there exists any potential for impact, this would generally be through the application process where there is the safeguard that any responsible authority or 'other person' may make representation. The four licensing objectives are also designed to ensure consideration of any impacts.		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	X (young people)		
People with caring Responsibilities			X
People with a disability			X
Women or men			X
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			X
Religion or belief (including lack of belief)			X
People who are lesbian, gay or bisexual			X
People who are transgendered			x

	People who are in a marriage or civil partnership		X
	Women who are pregnant / on maternity leave		X
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	X	
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	X	
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None	
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None	

Gambling Act 2005 Statement of Licensing Principles

Commencement: 30 January 2022

Contents

Part A - Overview	4
1 Introduction	4
2 The Licensing Objectives	4
3 Torbay Council Area Overview.....	5
4 Declaration.....	5
5 Interested Parties.....	5
6 Exchange of Information	6
7 Enforcement.....	6
8 Licensing Authority Functions	7
Part B – Premises Licences	8
9 General Principles.....	8
10 Guiding Principles.....	8
11 Decision Making Process.....	9
12 Definition of Premises	10
13 Provisional Statements – Premises not yet ready for Gambling	11
14 Premises Location	11
15 Duplication with other Regulatory Regimes	11
16 Licensing Objectives	12
17 Local Area Risk Assessments	14
18 Local Area Profile.....	16
19 Licence Conditions.....	17
20 Buildings divided into more than one premises.....	18
21 Access to Premises	18
22 Material amendments to the premises	21
23 Adult Gaming Centres.....	21
24 (Licensed) Family Entertainment Centres.....	21
25 Small Casino Premises Licence Overview.....	22
26 Bingo Premises Licence	22
27 Betting Premises Licence	23
28 Track Premises Licence.....	24
29 Travelling Fairs	27

30	Reviews	27
Part C – Permits and Temporary and Occasional Use Notices.....		28
31	Unlicensed Family Entertainment Centre (UFEC)	28
32	Alcohol Licensed Premises – Gaming Machine Permits.....	30
33	Prize Gaming Permits – Statement of Principles on Permits	31
34	Club Gaming Permits and Club Machine Permits.....	31
35	Temporary Use Notices	32
36	Occasional Use Notices.....	33
Part D - Appendices.....		33
37	Appendix 1 – Consultation	33
38	Appendix 2 - Small Casino Licence	34

Version control

Date	Details	Updated by
19.07.2021	Draft policy submitted for consultation	S Clarke
21.07.2021	Draft policy submitted for consultation – updated version with numbering posted to website	S Clarke
13.10.2021	Draft policy inclusive of suggested amendments following public consultation	S Clarke
15.10.2021	Track changes removed and submitted for approval by Council	S Clarke/S Cox
27.10.2021	Removal of references to “draft” Policy following approval by SLT on 26.10.2021 and inclusion of effective date of Policy	S Clarke
04.11.2021	Amendment following feedback at Informal Cabinet to Para 37.2 to provide correct name of the Torbay Economic Development Company trading as the Torbay Development Agency	S Clarke

Part A - Overview

1 Introduction

- 1.1 This Statement of Principles is published in accordance with the requirement set out in the Gambling Act 2005 requiring the Licensing Authority to prepare and publish a Statement of Principles that sets out the principles that the Licensing Authority proposes to apply when exercising its functions.
- 1.2 This Statement was written in accordance with legislation and guidance in place at the time of publication. It includes details of the steps taken in relation to its preparation and details of the policies to which the Licensing Authority will have regard in determining applications submitted under the Act. It is intended to comply with and fulfil the requirements of the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (SI 2006 No. 636).
- 1.3 The Licensing Authority consulted widely on this Statement of Principles 2022-2025, before approving and publishing the finalised 'Statement of Principles 2022-2025. The consultation period commenced 19 July 2021 and concluded 13 September 2021.
- 1.4 It should be noted that this Statement of Principles 2022-2025 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 application will be considered on its own merits and in accordance with the statutory requirements of the Act.
- 1.5 This Statement of Principles 2002-2025 was approved and adopted by Torbay Council on 9 December 2021.

2 The Licensing Objectives

- 2.1 In exercising its functions under the Gambling Act 2005 (hereinafter referred to as 'the Act'), the Licensing Authority will have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - Ensuring that gambling is conducted in a fair and open way.
 - 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].
- 2.2 In making decisions in relation to premises licences the Licensing Authority will, in accordance with Section 153 of the Act, aim to permit the use of premises for gambling in so far as it thinks that use will be:
 - In accordance with any relevant code of practice issued by the Gambling Commission, available here: <https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp>
 - In accordance with any relevant guidance issued by the Gambling Commission, available here: <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>.

- Consistent with the Licensing Objectives (subject to the above).

2.3 In accordance with Torbay Council's 'Statement of Principles', issued under the Act (subject to the above).

3 Torbay Council Area Overview

3.1 Torbay is situated on the South Devon coast, on the southwest 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; please refer to a map of the Torbay area in the [Local Area Profile](#).

4 Declaration

4.1 In producing this Statement of Principles 2022-2025, the Licensing Authority declares that it has had regard to the Licensing Objectives of the Act and the Gambling Commission's '[Guidance to Licensing Authorities](#)', updated 13 May 2021.

5 Interested Parties

5.1 '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 Act.

5.2 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', under the heading of 'Reviews'.

5.3 The Act states that a person is an 'Interested Party', if in the opinion of the Licensing Authority, that person:

- 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).

5.4 Persons at a) 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.

5.5 'Interested Parties' can also 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, provided the relevant Elected Member represents the ward or town likely to be affected.

5.6 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 '*Interested Party*' in relation to each of the other competing applications.

- 5.7 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:
- Each case will be decided upon its own merits subject to the Licensing Objectives and to any requirements imposed by the Act.
- 5.8 The Licensing Authority will not apply a rigid rule to its decision making.
- 5.9 The Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the status and interpretation of 'Interested Parties'.
- 5.10 In respect of any representation made by an interested party, the Licensing Authority may disregard the representation if it considers that the representation is frivolous, vexatious or will certainly not influence the Authority's determination of the application.
- 5.11 The following are examples of grounds which may be discounted by the Licensing Authority.
- Representations which relate to the objection to gambling activity generally, for instance on moral or ethical grounds.
 - Representations in relation to the demand or unmet demand for gambling premises.
 - Representations in relation to planning matters.
 - Public Safety issues.
 - Traffic congestion issues.
 - Public Nuisance.

6 Exchange of Information

- 6.1 The Licensing Authority will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission; this includes a provision that the General Data Protection Regulations will not be contravened. The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant Regulations issued by the Secretary of State under the powers provided in the Act.

7 Enforcement

- 7.1 The main enforcement and compliance role for the Licensing Authority in terms of the Act is to ensure compliance with the Premises Licences and other permissions which it authorises.
- 7.2 This Authority adopts a graduated approach to enforcement and when seeking to resolve or address issues the general expectation of the Authority is that operators promptly work alongside the Licensing Authority in taking remedial action. However, where a serious issue is identified, it is likely that the Authority will immediately initiate some form of enforcement action.
- 7.3 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 'Enforcement and Prosecution Policy' and will endeavour to be:
- 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.

- **Accountable:** The Licensing Authority will ensure that it can justify decisions and will provide facilities for the public scrutiny of decisions taken.
- **Consistent:** The Licensing Authority will ensure that rules and standards are 'joined up' and implemented fairly.
- **Transparent:** The Licensing Authority will be open and will endeavour to keep regulations simple and user friendly.
- **Targeted:** The Licensing Authority will endeavour to focus on the problem, minimise side effects and avoid duplication with other regulatory regimes.

7.4 The Licensing Authority has adopted and implemented a risk-based/intelligence led inspection programme, based on:

- The Licensing Objectives.
- Relevant codes of practice - <https://www.gamblingcommission.gov.uk/authorities/guide/codes-of-practice>
- Guidance issued by the Gambling Commission - <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>
- The principles set out in this Statement of Principles 2022-2025.
- Regulators Code - [Regulators' Code](https://www.gov.uk/government/publications/regulators-code) - GOV.UK (www.gov.uk)
- Departmental and Partner Agency intelligence.

7.5 The Gambling Commission has the following principal statutory functions:

- Issuing operating and personal licences to gambling businesses and individuals occupying certain positions in the gambling industry, with appropriate conditions, and ensuring that holders of licences adhere to their terms
- Publishing codes of practice
- Publishing statutory guidance to licensing authorities.

7.6 The Commission also has a duty to advise the Secretary of State on gambling and its regulation.

8 Licensing Authority Functions

8.1 The Licensing Authority has a duty under the Act to:

- Issue '*Premises Licences*' where gambling activities are to take place.
- Issue '*Provisional Statements*' where gambling activities may take place.
- Regulate '*Members Clubs*' that wish to undertake certain regulated gaming activities by issuing '*Club Gaming Permits*' or '*Club Machine Permits*'.
- Issue '*Club Machine Permits*' to '*Commercial Clubs*'.
- Grant '*Permits*' for the use of certain lower stake gaming machines at '*Unlicensed Family Entertainment Centres*'.
- Receive '*Notifications*' 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.
- Grant '*Licensed Premises Gaming Machine Permits*' 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.
- Register '*Small Society Lotteries*' below prescribed thresholds.
- Issue '*Prize Gaming Permits*'.
- Receive and endorse '*Temporary Use Notices*'.

- Receive 'Occasional Use Notices'.
- Provide information to the Gambling Commission.
- Maintain registers of the permits and licences issued.

Part B – Premises Licences

9 General Principles

- 9.1 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.
- 9.2 The Licensing Authority may:
- Exclude default conditions from the premises licence where the exclusion does not adversely affect the Licensing Objectives.
 - Attach additional licence conditions, if it is deemed necessary to do so to ensure the operation of the licence is consistent with the Licensing Objectives.

10 Guiding Principles

- 10.1 The Licensing Authority will treat each Licensing Objective with equal importance.
- 10.2 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 2020-2021, to do all that is reasonable to prevent crime and disorder in Torbay.
- 10.3 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.
- 10.4 The Licensing Authority will have regard to its responsibilities under the Equalities Act 2010.
- 10.5 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.
- 10.6 The Chair of Torbay Council's Licensing Committee will be elected at the annual meeting of the Council.
- 10.7 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.
- 10.8 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.

- 10.9 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, licence holders will be expected to demonstrate they have taken appropriate action to minimise the potential impact of that behaviour, within the general vicinity of the licensed premises.
- 10.10 The Licensing Authority will ensure that any conditions attached to a licence will relate to matters within:
- The control of the licence holder, or,
 - The control of other persons who may have relevant licences or authorisations, in respect of the subject premises, or adjacent premises.
- 10.11 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.
- 10.12 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 Act. The Licensing Authority will not have regard to the likelihood of obtaining consents under planning or building legislation in considering any application for a premises licence, made under the Act.
- 10.13 The Licensing Committee will receive reports, compiled six-monthly, on decisions made by Officers under the provisions of the scheme of delegation.
- 10.14 The Licensing Authority will, where relevant to its functions under the Act, have regard to and promote Torbay Council's Economic Strategy 2017-2022 and Torbay Council's Economic Recovery Plan, which forms part of the Council's Policy Framework.
- 10.15 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 Licensing Authority achieves this requirement using an online register which is accessible via the Council's website.

11 Decision Making Process

- 11.1 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:
- In accordance with any relevant code of practice issued by the Gambling Commission.
 - In accordance with any relevant guidance issued by the Gambling Commission.
 - Reasonably consistent with the Licensing Objectives (subject to the above).
 - In accordance with the Licensing Authority's 'Statement of Principles 2022-2025' (subject to the above).
- 11.2 In determining a premises licence application, the Licensing Authority shall not have regard to any objections which are deemed to be raised on moral or ethical grounds, nor will it be concerned with matters of sufficiency of, or unmet demand for, gambling facilities.

12 Definition of Premises

- 12.1 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 meaning “any place” set out at Section 152 of the Act and any guidance issued by the Gambling Commission and any decisions handed down by the Courts.
- 12.2 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. However, 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.
- 12.3 The Licensing Authority will pay particular attention, as recommended by Gambling Commission at 7.5 of its Guidance to Local Authorities (<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>), if there are issues about sub-division of a single building or plot and will ensure any applicable mandatory conditions relating to access between premises are observed. 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.
- 12.4 The Licensing Authority will pay particular attention, as referenced above, to premises licence applications and applications for permits, such as UFEC’s, 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.
- 12.5 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.
- 12.6 Where access to the proposed licensed premises or an area covered by a permit such as a UFEC, cannot be made directly from the public highway the Licensing Authority will consider specific issues before granting such applications, for example:
- The general access arrangements of the premises.
 - The structural integrity and nature of any premises separation.
 - Whether persons under 18 years of age can gain access to or have sightlines into the premises.
 - The compatibility of adjacent establishments.
 - Supervision and monitoring systems.
 - The nature and legitimacy of any unlicensed areas providing separation of licensed premises.
 - The overall ability to comply with the requirements of the Act, specifically but not exhaustively, the mandatory and default Licensing conditions.

13 Provisional Statements – Premises not yet ready for Gambling

13.1 Where there is an intention on the part of an applicant, to provide gambling facilities at premises:

- Which they expect to be constructed, or
- Which they expect to be altered, or
- For which they do not yet have the right to occupy the premises, then an application may be made to the Licensing Authority for a 'Provisional Statement'.

13.2 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'.

13.3 'Responsible Authorities' and 'Interested Parties' (in accordance with the procedures outlined at Section 4 of this Statement of Principles) can make representations to the Licensing Authority, in respect of an application for a 'Provisional Statement'. Following the grant of a 'Provisional Statement', no further representations from Relevant Authorities or Interested Parties can be taken into account unless:

- The representations concern matters which could not have been addressed at the 'Provisional Statement' stage.
- The representations reflect a change in the applicant's circumstances.

13.4 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:

- Could not have been raised by objectors at the 'Provisional Statement' stage
- In the Licensing Authority's considered opinion, reflect a material change in the operator's circumstances.

14 Premises Location

14.1 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, Local Area Profile and the Local Area Risk Assessment. In considering location, the Authority may consider the general characteristics of the area. For example, if the premises is in a Cumulative Impact Area for the purposes of the Licensing Act 2003, the Authority will consider whether this may negatively impact on the gambling licensing objectives and how the applicant proposes to mitigate such impact.

15 Duplication with other Regulatory Regimes

15.1 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 compliance with the Licensing Objectives.

15.2 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:

- Whether the premises, which is the subject of the licence application, is likely to be awarded planning permission or building consent.
- Whether the premises is safe for the intended use, (e.g., the structure, the means of escape, fire precaution provisions, etc).
- Whether the use of the premises under the licence may cause any public nuisance (e.g., to residents within the vicinity).

15.3 The above matters will be addressed by other regulatory regimes.

16 Licensing Objectives

16.1 The Licensing Authority will endeavour to ensure that any premises licences granted will be consistent with the Licensing Objectives.

16.2 The Licensing Objectives are:

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

Licensing Objective: Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

16.3 The Gambling Commission will take a lead role in preventing gambling from becoming a source of crime. However, the Licensing Authority acknowledges 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:

- 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.
- Whether additional licence conditions may be appropriate, such as the provision of Security Industry Authority (SIA), registered door supervisors.
- Whether additional security measures should be installed at the premises, such as monitored CCTV.
- The likelihood of any violence or public order issues if the licence is granted.
- The design and layout of the premises.
- The training given to staff in crime prevention measures appropriate to those premises, for example, the detection and prevention of money laundering.
- 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.
- If premises are to be subject to age restrictions; the procedures in place to conduct age verification checks.
- The Local Area Profile.
- The premises' Local Risk Assessment.

Licensing Objective: Ensuring that gambling is conducted in a fair and open way.

16.4 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 28 . 'However, the fair and open principle will be considered as an integral part of any inspection carried out by this Authority'.

Licensing Objective: Protecting children and other vulnerable persons from being harmed or exploited by gambling.

16.5 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. For more information regarding Local Area Risk Assessments, please see section 17.

16.6 In discharging its responsibilities with respect to this particular Licensing objective, the Licensing Authority will have regard to the current 'Gambling Commission Codes of Practice', insofar as they may apply to specific premises.

16.7 The Act does not offer a definition with regard to the term, '*vulnerable persons*', however the Gambling Commission states the following.

For regulatory purposes the Commission will assume that this group includes:

- 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.

16.8 Torbay and South Devon NHS Foundation Trust refers to a vulnerable adult as an Adult at Risk. The Care Act 2014 defines an adult at risk as someone who:

- has care and support needs
- is experiencing, or is at risk of, abuse or neglect
- as a result of their care and support needs is unable to protect himself or herself or the risk of it.

16.9 Torbay Council defines an adult at risk as persons aged over 18 years old who:

- is old and frail due to ill health, physical disability or cognitive impairment
- has a learning disability
- has a physical disability and/or a sensory impairment
- has mental health needs including dementia or a personality disorder
- has a long term illness/condition
- misuses substances or alcohol
- is a carer such as a family member/friend who provides personal assistance and care to adults and is subject to abuse

- is unable to demonstrate the capacity to make a decision and is need of care and support.

16.10 The Licensing Authority also recognises that, despite the above, anyone can be at risk of abuse or exploitation.

16.11 The Licensing Authority will have regard to the definitions of an Adult at Risk as provided by the Gambling Commission, by the Torbay and South Devon NHS Foundation Trust and Torbay Council, in discharging its responsibilities under the Act.

16.12 Problem gambling, particularly with the young, can sometimes be an indication of other issues that are of concern to the Licensing Authority, 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 Adult Services Directorate and Children's Services Directorate.

16.13 This Authority places social responsibility as a high priority. As such, it will when exercising its statutory powers have due regard, where relevant to its statutory functions, to the need to:

- Prevent gambling related problems in individuals and groups at risk of gambling addiction.
- Promote informed and balanced attitudes, behaviours and policies towards gambling and gamblers by both individuals and by communities; and
- Protect vulnerable groups from gambling related harm.

16.14 The Licensing Authority will work with operators and other public agencies to encourage a commitment to social responsibility including responsible design, delivery, promotion and use of product. The end goal will be to reduce the incidence of high-risk and problem gambling. The Licensing Authority will consider, in relation to any particular premises whether any special considerations apply to the protection of vulnerable persons. Such considerations need to be balanced by the Authority's objective to aim to permit the use of premises for gambling.

17 Local Area Risk Assessments

17.1 The Gambling Commission's Social Responsibility Code (Licence Conditions and Codes of Practice (LCCP) 10.1.1) requires licence holders to assess the local risks to the Licensing Objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licence holders should take into account any relevant matters identified in this Policy statement.

17.2 Licence holders are required to undertake a Local Area Risk Assessment when applying for a new premises licence. Their risk assessment will also need to be updated:

- When applying for a variation of a premises licence.
- To take account of significant changes in local circumstances, including those identified in this Policy.
- When there are significant changes at a licence holder's premises that may affect the level of risk or the mitigation of those risks. This includes any changes to the interior layout of the premises. Significant changes will require a variation to the premises licence.

- 17.3 The Social Responsibility Code provision is supplemented by the LCCP: Ordinary code 10.1.2 and requires licence holders to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Licensing Authority.
- 17.4 While there are no plans to request that licensed premises share risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licence holder share a copy of their risk assessment. The risk assessment will set out the measures the licence holder has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.
- 17.5 In some circumstances, it may be appropriate for the Licensing Authority to offer a licence holder the opportunity to volunteer specific conditions that could be attached to the premises licence. Where this is appropriate, the Licensing Authority will liaise with the licence holder directly.
- 17.6 The Social Responsibility Code (LCCP 10.1.1) requires an operator to consider the Licensing Authority's Statement of Policy, wherein the Licensing Authority will set out the matters it will expect an operator to take in to account when considering their own risk assessment. The Licensing Authority expects, though it is not a mandatory requirement, that operators consider the following matters:
- Information held by the licence holder regarding self-exclusions and incidences of underage gambling,
 - Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
 - Proximity to schools, commercial environments or other factors affecting footfall
 - Range of facilities in proximity to the licensed premises, such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
 - Potential for money laundering.

17.7 Matters relating to vulnerable adults, including:

- Information held by the licence holder regarding self-exclusions
- Gambling trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people, such as hospitals, residential care homes, medical facilities, doctor's surgeries, Council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

Other issues that may be considered could include:

- Proximity of premises which may be frequented by large numbers of people including sports stadiums, leisure centres, places of worship.
- Staffing levels at different times of the year (e.g., the peak summer school holidays).
- This list is not exhaustive and other factors not in this list that are identified must be taken into consideration. The Risk Assessment must be kept on the premises to

which it relates and available for inspection by an authorised officer of the Licensing Authority or Gambling Commission.

17.8 Significant changes in local circumstances:

- The following lists set out some examples of what the Licensing Authority considers to be significant changes in local circumstances requiring a review of the Local Area Risk Assessment. The list is not exhaustive, and each premises will be considered on its own merits. Operators must consider whether any change in the locality of their premises is one that may be considered significant.
- The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Local Area Profile.
- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors. For example, where premises are converted to a local supermarket, or a new office building is constructed nearby.
- Any new pay day loan establishment or pawn brokers open in the local area.
- Relevant changes are made to the provision, location and/or timings of public transport in the local area, such as a bus stop which is used by children to attend school is moved to a location in proximity to gambling premises.
- Educational facilities increase in the local area. This may occur because of the construction of a new school/college or where a significant change is made to an existing establishment.
- The local area is identified as a crime hotspot by the police and/or Licensing Authority.
- Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises e.g., additional homeless hostels or gambling or mental health care/support facilities in the local area.
- A new gambling premises opens in the local area.
- Operators must consider what is happening within their premises and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment. A significant change can be temporary, and any temporary changes should be considered, and adjustments made to the risk assessment if necessary.

17.9 Unlicensed Family Entertainment Centres (UFEC) are not required to undertake a Local Area Risk Assessment unless the UFEC is situated adjacent to an Adult Gaming Centre and therefore the Licensing Authority will expect the UFEC activities to be taken into account.

17.10 The Authority will expect applicants to have regard to the Local Area Profile (LAP) which will assist in identification of local gambling risks.

18 Local Area Profile

18.1 The Licensing Authority has produced a profile of the areas within the Authority which will assess the local environment and identify local concerns and risks. This will be available from January 2022.

18.2 The profile will take account of a wide range of factors, data and information held by the Licensing Authority and its partners. Responsible authorities and other relevant organisations will be invited to take part in the preparation of the profile. The profile will enable operators to

clearly identify the risks and concerns in the community when completing their risk assessment.

18.3 The Local Area Profile is a separate document to this Statement of Principles and will be made publicly available. It will be reviewed and amended as and when required taking into account changes in the local area.

19 Licence Conditions

19.1 Any additional conditions attached to licences will only be imposed where there is evidence of a risk to the Licensing Objectives and will be:

- 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.
- Fair and proportionate, related to the scale and type of premises.
- Reasonable in all other respects.

19.2 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 applicant to identify local risks and control measures ensuring their operations are consistent with the Licensing Objectives. 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.

19.3 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 operation of the premises in question is consistent with the Licensing Objectives. 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.

19.4 The Licensing Authority will have regard to any guidance issued by the Gambling Commission in determining any such additional measures.

19.5 Where there are risks associated with a specific premises or class of 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.

19.6 The Licensing Authority will ensure that, where category A to C machines are made available on premises to which children have access that:

- 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.
- Only adults have access to the area where these machines are located.
- Access to the area where the machines are located is adequately supervised.
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder.
- 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.

- 19.7 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 a premises are distinct and that children are effectively excluded from gambling areas to which entry is not permitted.
- 19.8 Applicants are encouraged to consult the Licensing Authority prior to submitting an application so that the Authority may offer guidance in respect of the premises' intended operation, premises layout, geographical area to which the premises is located etc.

20 Buildings divided into more than one premises

- 20.1 Part 7, paragraph 7.5 of the Gambling Commissions Guidance states that *"there is no reason in principle why a single building could not be subject to more than one premises licence; provided they are for different parts of the building, and the different parts of the building can be reasonably regarded as being different premises"*. Examples are given of multiple unit premises, such as pleasure parks, tracks, or shopping malls. It is also possible for licensed premises to be located next to each other, as long as there are no restrictions regarding direct access between these premises imposed on that category of gambling premises from its mandatory conditions. The Licensing Authority will follow this guidance.
- 20.2 It will be for the Licensing Authority to determine whether premises are genuinely separate, and not artificially created from that which is readily identifiable as a single premises. Prior to making an application, applicants are encouraged to discuss with the Licensing Authority their premises layout and intended applications.
- 20.3 In considering whether different areas of a building are genuinely separate premises, the Licensing Authority will take into account factors which may include whether there are separate registrations for business rates in place for the premises, whether the premises are owned or operated by the same person, and whether the premises are operated independently of each other.

21 Access to Premises

- 21.1 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions which relate to access between premises.
- 21.2 The Gambling Commission Guidance at paragraph 7.22 states *"There is no definition of 'direct access' in the Act or Regulations, but Licensing authorities may consider that there should be an area separating the premises concerned, for example a street or café, which the public go to for purposes other than gambling, for there to be no direct access."*
- 21.3 In particular, where premises are not accessed from the street, the Licensing Authority has sought to define the nature of the area which must separate licensed premises and through which the premises are accessed, so as to prevent direct access between premises in order to comply with the provisions of the Act and Regulations.
- 21.4 The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the

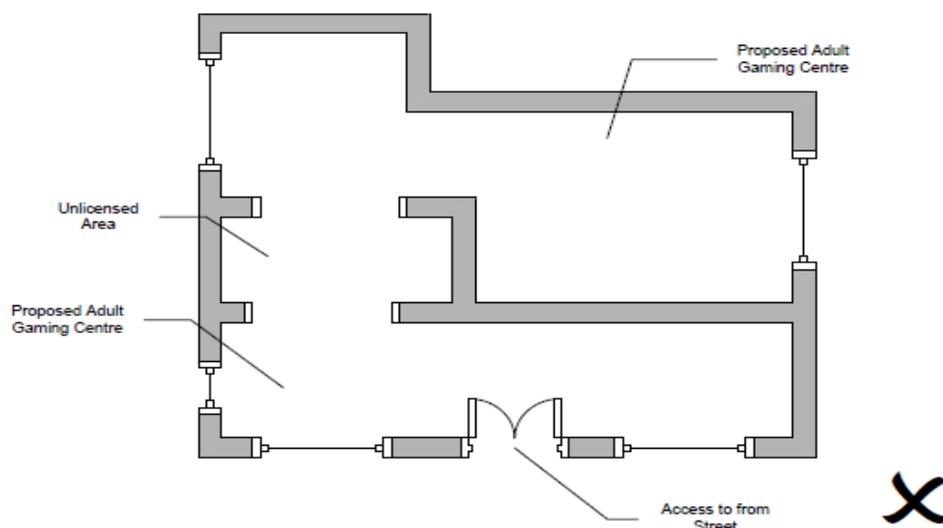
licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or ATMs.

21.5 Where the Licensing Authority is satisfied that a building can be divided into separate premises and properly satisfy the statutory provisions, the Licensing Authority will expect applicants to ensure that:

- Premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part,
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised, and people do not 'drift' into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers must be able to participate in the activity named on the premises licence.
- This is not an exhaustive list, and the Licensing Authority will consider other aspects based on the merits of the application.

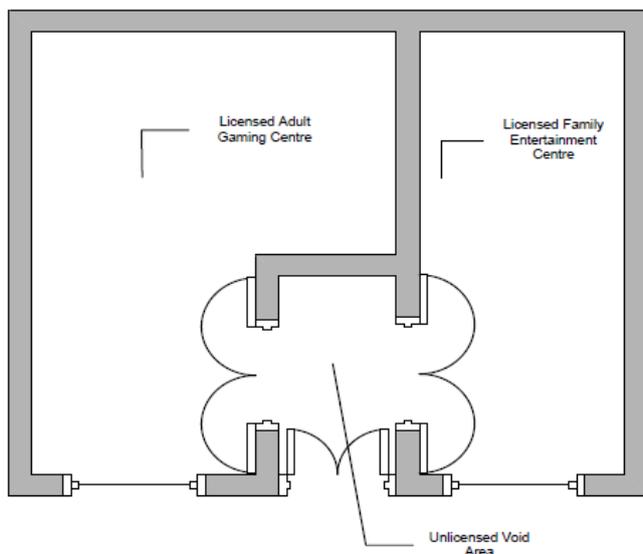
21.6 Applications to place two licensed premises in one premises with an unlicensed area separating them, (see figure 1) will not meet this Policy because of the artificial nature of the premises, access, and likely use issues which will arise.

Figure 1



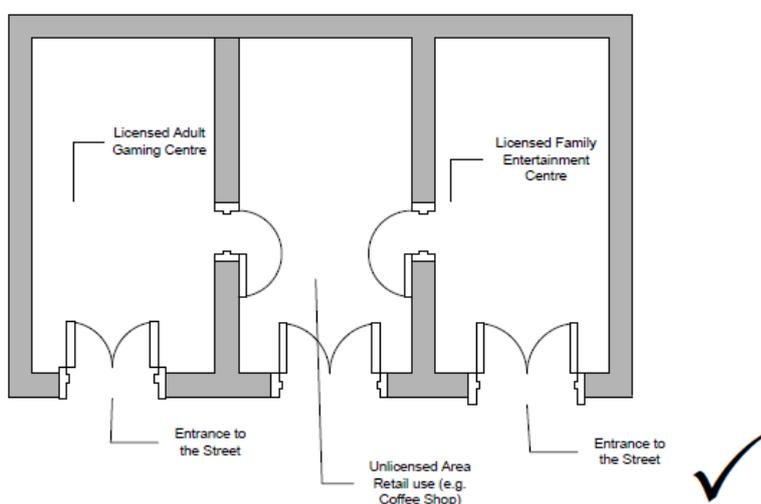
21.7 It is possible to have an unlicensed foyer area which separates one licensed premises from another if the foyer is accessed from the street, see Figure 2. The Licensing Authority would expect as a minimum that the area should be used for non-gaming purposes such as an information point, a coffee shop or similar but must not contain any gambling information or literature promoting gambling activities. The size of the unlicensed area is matter for each application, but the Licensing Authority will not consider this configuration if the foyer is not of sufficient size to be a useable space.

Figure 2



21.8 It may also be acceptable if a premises is separated by another non-licensed premises that has access to both licensed premises from it. An example of this could be in the form of a coffee shop which has a main entrance to the street. The coffee shop may have access to an Adult Gaming Centre on one side and an entrance Family Entertainment Centre on the other side, see figure 3. Where a member of the public not using the gambling premises is likely to use the coffee shop it may be considered that there is no direct access between the two licensed premises.

Figure 3



21.9 The provisions of this Statement of Principles 2022-2025 come into force on 30 January 2022. From this date, any new application for any type of Gambling Premises Licence, will be expected to fully comply with the terms and conditions as set out above. Existing licensed premises may continue to operate under the terms that have been granted by virtue of the licence that they currently hold, provided that the Licensing Objectives continue to be fully promoted at all times. Any application to vary however, will be subject to the full terms as outlined above.

22 Material amendments to the premises

- 22.1 The Authority will have regard to the principles as set out in s.153 of the Act in determining variation applications. However, applications will be carefully scrutinised to ensure the Licensing Objectives are not undermined.
- 22.2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times. For example, the installation of any screening would require a variation application including an updated Local Area Risk Assessment to evidence that any risks presented have been recognised and mitigated.

23 Adult Gaming Centres

- 23.1 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.
- 23.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*
- Proof of age schemes.
 - Closed Circuit Television Systems, (CCTV).
 - Supervision of entrances and machine areas.
 - Physical separation of areas.
 - Location of entry.
 - Appropriate notices and signage.
 - Specific opening hours.
 - Self-exclusion schemes and the display of information regarding self-exclusion schemes.
 - Provision of information leaflets and helpline numbers for organisations such as 'Gamcare'
 - Identify local risks, such as proximity to schools or in an area with a high crime rate.

24 (Licensed) Family Entertainment Centres

- 24.1 In respect of (Licensed) Family Entertainment Centres, (FEC's), 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.

24.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate.

24.3 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. Please refer to Sections 20 and 21 of this Statement of Principles for more information regarding separation of premises and/or consult the Licensing Authority for guidance in this regard.

25 Small Casino Premises Licence Overview

25.1 On 15 May 2008, the Categories of Casino Regulations 2008 and the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 were approved. This specified which Licensing Authorities could issue Large and Small Casino Licences. Torbay Council was one of the authorities authorised to issue a Small Casino Premises Licence.

25.2 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 as 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.

25.3 At the time a counter resolution is passed, the principles set out in Appendix 2 will be applied.

26 Bingo Premises Licence

26.1 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:

- 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.
- Only adults are admitted to the area where the machines are located.
- Access to the area where the machines are located is adequately supervised.
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder.
- 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.
- No under 18s may play bingo on this premises' must be displayed at each entrance to the bingo premises.

26.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures/training for staff on how to deal with suspected truant school children on the premises.
- Provision of information leaflets and helpline numbers for organisations such as Gamcare
- Identify local risks, such as proximity to schools or in an area high crime rate.

26.3 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. In particular, the Licensing Authority will have regard to Social Responsibility Code 9, which requires that gaming machines are only made available in combination with the named non-remote activity of the operating licence. The Code states: *“So, unless a bingo operator offers substantive facilities for non-remote bingo it should not make gaming machines available for use on the premises in question. To contain the unavoidable risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.”*

27 Betting Premises Licence

27.1 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.

27.2 A betting premises licence gives the holder the entitlement to up to 4 Category B2 machines. The Licensing Authority may only limit the number of permitted gaming machines where it relates to an alcohol-licensed premises which holds a gaming machine permit. In such cases, the Licensing Authority will have regard to the following:

- The size of the premises.
- The number of counter positions available for person-to-person transactions.
- The ability of staff to monitor the use of the machines by persons under 18 years of age or vulnerable persons.

27.3 The Licensing Authority expects applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: (*this list is indicative only and is not exhaustive*)

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures / training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate.

27.4 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, as well as any subsequent case law.

27.5 The Licensing Authority will require a full premises licence variation application when premises are intending to apply screening and/or a booth to any category of gaming machines.

28 Track Premises Licence

General

28.1 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.

28.2 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.

- 28.3 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/herself; in which case an Operating Licence will be required.
- 28.4 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 Operator's Licence.
- 28.5 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:
- The need to ensure entrances to each type of premises are distinct.
 - That children are excluded from gambling or betting areas that they are not permitted to enter.
- 28.6 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.
- 28.7 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.
- 28.8 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:
- 28.9 (This list is indicative; it is not mandatory or exhaustive)
- Proof of age schemes.
 - CCTV.
 - Door supervisors.
 - Supervision of entrances/machine areas.
 - Physical separation of areas.
 - Location of entry.
 - Notices / signage.
 - Specific opening hours.
 - Self-barring schemes.
 - Provision of information leaflets / helpline numbers for organisations such as Gamcare.
 - Identify local risks, such as proximity to schools or in an area with a high crime rate.

Gaming Machines at Tracks

- 28.10 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.

Betting Machines at Tracks

28.11 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.

28.12 The potential space available for betting machines at a track may be considerable, bringing with it significant problems in relation to:

- The proliferation of such machines.
- The ability of track staff to supervise the machines if they are dispersed around the track.
- The ability of the track operator to comply with the law and prevent children betting on the machines.

28.13 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:

- The size of the premises.
- The ability of staff to monitor the use of the machines by children or by vulnerable people.
- The number, nature, location and circumstances of the betting machines that an operator intends to make available for use.

Conditions on Rules being Displayed at Tracks

28.14 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 a leaflet.

Applications and Plans for Tracks

28.15 The following information should be submitted with the application:

- Detailed plans for the track and the area that will be used for temporary “on-course” betting facilities (often known as the “Betting Ring”).
- 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.
- Details of any other areas of the track, which may be the subject of a separate application, for a different type of premises licence.

Self-Contained Premises on Tracks

28.16 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.

29 Travelling Fairs

29.1 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, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.

29.2 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.

29.3 The Licensing Authority will monitor fairs, (whether travelling or otherwise), which provide category D 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.

29.4 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.

30 Reviews

30.1 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.

30.2 The list of Responsible Authorities can be viewed at www.torbay.gov.uk.

30.3 Interested Parties are defined at Section 5 of this 'Statement of Principles'.

30.4 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:

- In accordance with any relevant Code of Practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Consistent with the Licensing Objectives.
- In accordance with Torbay Council's 'Statement of Principles'.

30.5 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, (*this list is indicative and is not exhaustive*):

- Representations which do not raise an issue relevant to the principles to be applied in accordance with Section 153 of the Act.

- Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this ‘Statement of Principles’.
- Representations which relate to an objection to gambling activity generally; for instance on moral grounds.
- Representations in relation to the demand or unmet demand for Gambling Premises.
- Representations in relation to planning matters.
- Public Safety Issues.
- Traffic Congestion issues.

30.6 The Licensing Authority will not initiate a licence review if it considers that the grounds upon which the review is being sought are:

- Frivolous
- Vexatious
- 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 revisit issues which were considered at the time of the grant, unless there is evidence which justifies such reconsideration.
- 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.
- 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.

30.7 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’.

Part C – Permits and Temporary and Occasional Use Notices

31 Unlicensed Family Entertainment Centre (UFEC)

31.1 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 Licensing Authority, operators can provide an unlimited number of Category D gaming machines, upon the premises.

31.2 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, in accordance with

Section 238 of the Act, be 'wholly or mainly' used for making gaming machines available for use.

- 31.3 The Licensing Authority will require as part of the application form, a plan to scale, clearly defining the area covered by the UFEC and including the layout of machines. UFEC permits will only be granted for areas which complies with section 238 of the Gambling Act in that the area specified is wholly or mainly used for making gaming machines available for use. As such it is not permissible for permits to be granted to entire complexes such as leisure centres, shopping centres and motorway service areas or similar.
- 31.4 The Licensing Authority will issue permits for unlicensed family entertainment centres in accordance with the following principles:
- The Licensing Objectives.
 - Any relevant regulations or codes of practice.
 - Any guidance issued by the Gambling Commission.
 - The principles set out in this 'Statement of Principles'.
- 31.5 The Licensing Authority will only grant a permit if satisfied that the premises will be used as a UFEC and that Devon and Cornwall Police has been consulted in relation to the application; applicants will also be required to demonstrate to the Licensing Authority:
- 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.
 - That staff are suitably trained and have a full understanding of the maximum stakes and prizes permissible in an unlicensed family entertainment centre.
 - That the applicant has no convictions, which may have been identified as 'relevant convictions', for the purposes of the Act.
- 31.6 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.
- 31.7 Such measures may include:
- Enhanced criminal record checks for staff.
 - Appropriate measures/training for staff as regards suspected truant school children on the premises.
 - Appropriate measures/training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on/or around the premises.
- 31.8 The Licensing Authority can grant or refuse an application for an unlicensed family entertainment centre permit; however, it cannot attach conditions to a permit.
- 31.9 The Licensing Authority encourages applicants for UFEC Permits to consider adopting the British Amusement Catering Trade Association (BACTA) voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres, which now includes no access to Category D reel machines for those aged under 18 years. This Code of Practice promotes awareness of social responsibility and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

32 Alcohol Licensed Premises – Gaming Machine Permits

- 32.1 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.
- 32.2 The Licensing Authority can remove the '*Licensing Act 2003 Automatic Entitlement*' in respect of any particular premises if:
- The provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives.
 - The Licence Holder has breached the requirements of the Act.
 - An offence under the Act has been committed on the premises.
 - The premises are mainly used for gaming.
- 32.3 The premises must comply with the Code of Practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission, which may be accessed through the following link: <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/lccp>.
- 32.4 All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.
- 32.5 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.
- 32.6 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:
- The requirements of the Act.
 - The Licensing Objectives.
 - Any guidance issued by the Gambling Commission.
 - Any Code of Practice issued by the Gambling Commission.
 - The principles within this 'Statement of Principles'.
 - Any other matters that the Licensing Authority considers relevant.
- 32.7 The matters that the Licensing Authority considers relevant in reference to the last bullet point above, will include but are not exclusive to:
- Any representation it considers relevant by The Police and the Children's Safeguarding Board.
 - Any relevant policies e.g., child protection from the applicant.
 - The percentage of gross turnover the gaming machines contribute to total gross turnover of the premises and this should not be significant.
 - The confidence the Licensing Authority has in the management of the premises.
- 32.8 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.

32.9 Applications for permits under this section cannot be made in respect of unlicensed non-alcohol areas of, (*Licensing Act 2003*), licensed premises. Such areas would need to be considered under the provisions relating to ‘Family Entertainment Centres’ or ‘Adult Gaming Centres’.

33 Prize Gaming Permits – Statement of Principles on Permits

33.1 In considering any application for a prize gaming permit the Licensing Authority will have regard to the following:

- The type of gaming that the applicant is intending to provide.
- The requirements of the Act.
- The Licensing Objectives.
- Any guidance issued by the Gambling Commission.
- Any statutory and mandatory conditions.
- The principles within this ‘Statement of Principles’.

33.2 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.

33.3 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:

- The limits on participation fees, as set out in regulations, must be complied with.
- 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.
- The prize for which the game is played must not exceed the amount set out in regulations (if a monetary prize), or the prescribed value, (if non-monetary prize).
- Participation in the gaming must not entitle the player to take part in any other gambling.

34 Club Gaming Permits and Club Machine Permits

34.1 The Act creates a separate regime for gaming in ‘club’ premises from that in other relevant alcohol licensed premises. It defines two types of clubs for the purposes of gaming:

- Members’ club (including miners’ welfare institutes)
- Commercial club.

34.2 A Members Club may apply for a ‘Club Gaming Permit’ or a ‘Club Machine Permit’. Whereas a Commercial Club, may only apply for a ‘Club Machine Permit’ and may not provide Category B3A machines.

34.3 The grant of a ‘Club Gaming Permit’ by the Licensing Authority will enable the premises to provide gaming machines of the type and number set out on the Gambling Commission’s website (link below) and <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/club-gaming-and-machine-permits>, equal chance gaming and games of chance as set out in regulations.

- 34.4 The grant of a 'Club Machine Permit' by the Licensing Authority will enable the premises to provide gaming machines of the type and number set out on the Gambling Commission's website <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/club-gaming-and-machine-permits>
- 34.5 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.
- 34.6 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.
- 34.7 The Licensing Authority may only refuse an application for a 'Club Gaming Permit' or a 'Club Machine Permit' on the grounds that:
- The applicant does not fulfil the statutory requirements for a member's club, a commercial club or a miner's club, welfare institute; and therefore, is not entitled to receive the type of permit for which it has applied.
 - The applicant's premises are used wholly or mainly by children and/or young persons.
 - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities.
 - A permit held by the applicant has been cancelled in the previous ten years.
 - An objection to the grant of a permit has been lodged by the Gambling Commission or the Police.
- 34.8 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.
- 34.9 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:
- That the club is established primarily for gaming, other than gaming prescribed under Schedule 12 of the Act, *that section relating to 'Club Gaming Permits' and 'Club Machine Permits'*.
 - That in addition to the prescribed gaming to be provided under the permit, the applicant provides facilities for other gaming on the same premises.
 - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 34.10 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.

35 Temporary Use Notices

- 35.1 There are a number of statutory limits as regards temporary use notices. The limits are set out in the Act as:

- A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.
- 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.

35.2 The Licensing Authority notes that a Temporary Use Notice can only be used to offer gambling of a form authorised by the operator's Operator Licence and will give consideration to whether the form of gambling offered on the premises will be remote, non-remote, or both.

35.3 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'.

35.4 '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 be a poker competition.

35.5 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).

36 Occasional Use Notices

36.1 With regard to 'Occasional Use Notices' (OUN's), the Licensing Authority will ensure the following:

- That the statutory limit of 8 days in a calendar year is not exceeded.
- That the subject premises can reasonable and effectively be defined as a 'track'
- That the applicant is permitted to avail himself/herself of the notice.
- Further information on OUN's may be found on the Gambling Commission website:

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/page/occasional-use-notices-ouns>

Part D - Appendices

37 Appendix 1 – Consultation

37.1 The Act requires that the following parties are consulted by Torbay Council prior to publication of this 'Statement of Principles':

- The Chief Officer of Police.
- One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Authority's area.
- One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act.

37.2 This Statement of Principles is made following consultation with the following:

- 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 and South Devon NHS Foundation Trust
- Torbay Safeguarding Children's Partnership
- 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
- Brixham Town Council
- English Riviera BID
- Torbay Economic Development Company trading as the Torbay Development Agency

37.3 In determining this Statement of Principles, the Licensing Authority undertook to give appropriate weight to the views of those it consulted. In determining what weight to give to a particular representation, the factors taken into account included:

- Who made 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 representation related to matters that The Licensing Authority should be including in its Statement of Principles.

37.4 Torbay Council has designated the Torbay Safeguarding Children's Partnership, as the 'Competent Body' to advise the Council, with regard to the Licensing objective that protects children from being harmed or exploited by gambling.

38 Appendix 2 - Small Casino Licence

38.1 The Act 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.

38.2 The Secretary of State established a '*Casino Advisory Panel*' 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.

38.3 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. 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.

38.4 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*' (herein referred to as the

Code of Practice). 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 Act.
- Matters to which the Licensing Authority should have regard in making those determinations.

38.5 In summary, the casino licensing process is in two stages. At Stage 1, applications are made for premises licences or provisional statements. Those applications are decided in accordance with section 153 of the Gambling Act 2005, in the same way as any other application and without reference to each other. If more than one applicant is successful at Stage 1, then the process passes to Stage 2.

38.6 As to Stage 2, Schedule 9 paragraph 5 to the Act states the following:

“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.

The Authority shall then determine which of those applications to grant under section 163(1)(a).

For that purpose the Authority -

- *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,*
- *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,*
- *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*
- *may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a).”*

38.7 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.

38.8 The Licensing Authority will therefore stage a statutory selection process, (*the ‘small casino premises licence process’*), under Schedule 9 of the Act and will run the selection process in line with *‘The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008’* and the said Code of Practice, issued by the Secretary of State.

38.9 In accordance with the above Regulations, Torbay Council’s Licensing Authority will publish an invitation calling for applications for the ‘small casino premises licence’.

38.10 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:

- Make a ‘Provisional Decision to Grant’ in respect of those applicants deemed appropriate for the grant of a small casino premises licence.
- Implement Stage 2 of the ‘small casino premises licence process’.

- 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’.

38.11 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.

38.12 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.

38.13 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:

- Stage 2 of the ‘small casino premises licence process’ will not be implemented, and,
- The Licensing Authority may re-publish an invitation calling for applications for a ‘small casino premises licence’.

38.14 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 as 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. To date, no resolution has been passed by the Licensing Authority.

Small Casino Premises Licence – General Principles

38.15 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.

38.16 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.

38.17 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 Act and to any Codes of Practice, Regulations and Guidance which may be issued by:

- The Secretary of State.

- The Department for Culture, Media and Sport, (*DCMS*).
- The Gambling Commission.

38.18 In making any decision in respect of a small casino premises licence application, made under the 'small casino premises licence process':

- 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
- Any decision taken in relation to the small casino premises licence application, shall not constrain any later decision by The Council, under the law relating to planning or building control; and
- 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.

38.19 The Licensing Authority cannot consider unmet demand when considering applications for a small casino premises licence.

38.20 Torbay Council does not have a preferred location for the new small casino. Applicants can submit plans for any site or location within Torbay, each of 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 the licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling.

38.21 Where more than one 'Provisional Decision to Grant' is issued, the Licensing Authority will implement Stage 2 of the 'small casino premises licence process'.

38.22 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.

Small Casino Premises Licence Application - Stage 1

38.23 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.

38.24 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.

38.25 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.

38.26 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.

38.27 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 Act and its Regulations. Additional

information may be submitted by an applicant participating in Stage 2 of the 'small casino premises licence process'.

- 38.28 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 5, of this 'Statement of Principles' and all representations will be considered carefully to ensure they meet the requirements set out therein.
- 38.29 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.
- 38.30 Where the application at Stage 1 is for a 'Provisional Statement', the provisional statement is likely to be granted for a fixed period of 12 months, so that applications for premises licences should follow shortly after the provisional statement.
- 38.31 It is unlikely that the Authority will wish to extend the duration of the provisional statement.
- 38.32 If applicants do not believe they can apply for and be granted a premises licence within 12 months of grant of the provisional statement they should say so in their applications. The risk that they will not obtain a premises licence within that timescale will be taken into account in assessing the likely benefits of the proposal.
- 38.33 If a licence is granted, the Authority is likely to consider applying to revoke it after 12 months pursuant to section 202(3) of the Act, unless construction work has commenced or is imminent at the end of that period.

Small Casino Premises Licence Application - Stage 2

- 38.34 Stage 2 of the 'small casino premises licence process' cannot commence until Stage 1 has been completed and all applications have been determined, including the conclusion of any and all appeals.
- 38.35 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 wellbeing of the area.
- 38.36 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. It will grant the available licence to the applicant whose application it considers will be likely if granted to result in the greatest benefit to the area of Torbay.
- 38.37 Any determination made under Stage 2 of the 'small casino premises licence process' will be judged on the criteria below, which have been established by the Licensing Authority in consultation with the community of Torbay, under the terms of this Statement of Principle'.
- 38.38 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.

38.39 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.

38.40 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:

- An upfront payment on grant.
- A percentage of the Gross Gambling Yield including from machines
- An annual sum, to be paid whether the casino has been built or is operational or not.
- The likelihood of delivery of such benefits.

38.41 In considering the likelihood that such benefits will be delivered, the matters the Licensing Authority will take into account include but are not limited to:

- Whether the applicant is the intended operator.
- If the applicant does not have an operating licence, the timescale for obtaining one.
- Whether or not the proposal has planning permission.
- Whether or not the applicant has a legal right to occupy the site.
- The committed financing of the proposal.
- The timescale for completion and the risks to the timetable.
- Whether the Stage 1 application is for a 'provisional statement', and whether a premises Licence application will be made with 12 months of the original grant.

38.42 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'. While these matters are likely to receive the greatest weight in the evaluation process, 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.

38.43 The Stage 2 applicant will be expected to additionally submit the following:

- A clear and detailed Business Plan dealing, amongst other things, with the viability of any submitted proposals.
- 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.
- 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.
- 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).

- 38.44 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.
- 38.45 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.
- 38.46 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.
- 38.47 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'.
- 38.48 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.
- 38.49 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.
- 38.50 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.
- 38.51 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:
- A formal objection must be served upon the Local Authority within 10 working days of the applicant requesting an application pack.
 - The objection must clearly indicate the grounds upon which the objection is being made.
 - 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.
 - The formal procedure to be followed in the event of any objection being raised will be detailed within the 'application pack'
- 38.52 The strict time constraints detailed 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).

38.53 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.

38.54 Once the bid documentation is finalised, the Advisory Panel will evaluate each bid. 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.

38.55 The unsuccessful applicant(s) will be informed of the result and reasons for rejection as soon as is reasonably practicable.

Statement of Principles under the Gambling Act 2005: consultation feedback analysis

Respondent	Response Received	Detail of Response	Proposed Amendment to Draft Statement of Principles
Brixham Town Council	31/08/2021	<p>Q1: In respect of the draft Statement of Principles, do you believe it contains sufficient detail and information for you to have a good understanding of the Council's policy aims and the decision-making process?</p> <p>A1: Yes.</p> <p>Q2: Do you consider the draft Statement of Principles to be fair to both residents, businesses, and licensed gambling premises?</p> <p>A2: Yes.</p>	None.
Torbay Council' Licensing Committee	02/09/2021	That the Licensing Committee recommends the approval of the Gambling Act 2003 – Draft Licensing Statement of Principles 2022 to 2025.	None.
Betting and Gaming Council (submitted by Gosschalks LLP)	09/09/2021	The statement of principles makes a number of references to the promotion of, or requirement to promote the licensing objectives (paragraphs 9.1, 15.1, 15.2, 16.3, 19.2 and 19.3). These references should be amended. As the statement of principles identifies elsewhere, the requirement is that applications and operations must be consistent with the licensing objectives. The only body upon whom the Gambling Act confers a duty to promote the licensing objectives is the Gambling Commission.	<p>Propose to amend references at 9.2 (was 9.1 in the consultation draft), 15.1, 16.3, 19.2 and 19.3 so that the Policy makes clear that applications and operations must be consistent with the licensing objectives under the Gambling Act 2005 – as set out at Part 8, Para 153.</p> <p>Propose that Paragraph 15.2 remains the same as feel the amendment to Paragraph 15.1 sufficiently qualifies the scope and intent of Paragraph 15.2.</p>

The final sentence of paragraph 14.1 should be deleted. This refers to the authority potentially considering matters which may have an adverse impact on gambling activities when considering location in the context of an application. These are not relevant considerations under s153 Gambling Act 2005 and should not be taken into account as is clearly stated in paragraph 15.2.

Paragraphs 17.6 to 17.8 inclusive should be redrafted and significantly abridged. Paragraph 17.6 refers to SR Code Provision 10.1.1 but then implies that the code mandates an applicant to take certain matters into account as there then follows a list of bullet points that an operator “shall” take into account. These supposedly mandatory considerations are listed in both paragraphs 17.6 and 17.7. This section should be clear that the SR Code Provision requires that, *“Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority’s statement of licensing policy”* and the list of bullet points could then be introduced

Do not propose to remove the wording as below from paragraph 14.1, which has since been amended following consultation with an external Legal Advisor and now reads:

“In considering location, the Authority may consider the general characteristics of the area. For example, if the premises is in a Cumulative Impact Area for the purposes of the Licensing Act 2003, the Authority will consider whether this may negatively impact on the gambling licensing objectives and how the applicant proposes to mitigate such an impact.”

Propose redrafting of paragraph 17.6 to make clear that the SR Code Provision 10.1.1 requires licence holders must assess the risks to the licensing objectives posed by the provision of gambling facilities at each of their premises and that the list of matters provided in paragraphs 17.7 and 17.8 are ones the Council expects Applicants to take into account (although they are not mandatory considerations).

Suggested revised paragraph 17.6 below:

“The Social Responsibility Code (LCCP 10.1.1) requires an operator to consider the Licensing Authority’s Statement of Policy, wherein the Licensing Authority will set out the matters it will expect an operator to take

as examples of matters that the authority would expect to be taken into account.

The list of bullet points should, however, be deleted. The bullet points highlight matters that will be a feature of every urban and suburban landscape. The fact is that gambling premises have existed in areas of dense population or high footfall ever since they have been permitted. Operators will identify risks and ensure that they have policies, procedures and mitigation measures in place to mitigate any identified risk. In the circumstances, these paragraphs should be cut back to highlight only the requirement of SR Code Provision 10.1.1.

If the list of bullet points is to remain, it should be amended to take into account only matters that may be relevant to an assessment of risk to the licensing objectives. It is impossible to see how issues such as “youths participating in anti-social behaviour” could in itself pose a risk to the licensing objectives. Similarly, “gaming trends that may mirror days for financial payments such as pay days or benefit payments” can only be relevant to an assessment of risk to the licensing objectives if the authority’s view is that anyone in receipt of benefits or indeed paid employment is deemed vulnerable or likely to commit crime as a result of gambling. This cannot be correct.

in to account when considering their own risk assessment. The Licensing Authority expects, though it is not a mandatory requirement, that operators consider the following matters. ~~As such, an operator shall take the following matters in to account:~~

- Information held by the Licence Holder licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- ~~Gaming trends that may mirror days for financial payments, such as pay days or benefit payments~~
- Proximity to schools, commercial environment or other factors affecting footfall
- Range of facilities in proximity to the licensed premises, such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- ~~Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.~~
- Potential for money laundering.”

Do not propose, as suggested in the consultation response, to remove the bulleted list at paragraph 17.7 as consider it important to leave in the requirement that operators should think about matters set out therein, including gaming trends that mirror days for financial payments (such as pay days or benefit payments), as feel this may have particular impact on vulnerable adults.

Paragraph 27.2 should be redrafted so that it is clear that the entitlement to make up to four gaming machines of categories B, C or D is not something that can be limited by condition whereas the authority does have the ability to limit the number of betting machines in certain circumstances.

Do not propose, as suggested in the consultation response, to remove the bulleted list at paragraph 17.8 as consider it important to flag at the outset that the Licensing Authority expects operators to have these matters in mind when planning or managing their operations.

Propose rewording of paragraph 27.2 to acknowledge that conditions may not be attached to a premises licence by the Licensing Authority under s.172(10) of the Gambling act 2005.

Reworded Paragraph 27.2 to read:

“A betting premises licence gives the holder the entitlement to make up to four Category B2 machines. The Licensing Authority may only limit the number of permitted gaming machines where it relates to an alcohol-licensed premises which holds a gaming machine permit. In such cases, the Licensing Authority will have regard to the following:

- The size of the premises.
- The number of counter positions available for person-to-person transactions.
- The ability of staff to monitor the use of the machines by persons under 18 years of age or vulnerable persons.”

Meeting: Audit Committee
Council

Date: 17 November 2021
9 December 2021

Wards affected: all

Report Title: Decision to opt in to the national scheme for Auditor Appointments with Public Sector Audit Appointment (PSAA) as the 'Appointing Person'

Cabinet Member/Chairman of Committee Contact Details: Councillor Cowell, Cabinet Member for Finance, Darren.cowell@torbay.gov.uk, / Councillor Loxton, Chairman of the Audit Committee, Robert.loxton@torbay.gov.uk.

Director/Assistant Director Contact Details: Martin Phillips, Director of Finance, martin.phillips@torbay.gov.uk

1. Purpose of Report

- 1.1 To consider proposals for appointing the external auditor to the Council for the 2023/24 accounts and beyond, as the current arrangements only cover up to December 2022.

2. Reason for Proposal and its benefits

We want Torbay and its residents to thrive.

We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.

We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

- 2.1 The proposals in this report help us to deliver this ambition by ensuring the Council is fit for the future.

2.2 The reasons for the decision are A sector-wide procurement conducted by Public Sector Audit Appointments (PSAA) will produce better outcomes and will be less burdensome for the Council than any procurement undertaken locally. More specifically:

- The audit costs are likely to be lower than if the Council sought to appoint locally, as national large-scale contracts are expected to drive keener prices from the audit firms;
- Without the national appointment, the Council would need to establish a separate independent auditor panel, which could be difficult, costly and time-consuming;
- PSAA can ensure the appointed auditor meets and maintains the required quality standards and can manage any potential conflicts of interest much more easily than the Council;
- Supporting the sector-led body will help to ensure there is a vibrant public audit market for the benefit of the whole sector and this Council going forward into the medium and long term.

3. Recommendation(s) / Proposed Decision

1. That the Audit Committee recommends:

That the Council accepts Public Sector Audit Appointments' (PSAA) invitation to 'opt in' to the sector led option for the appointment of external auditors for five financial years commencing 1 April 2023.

Appendices

None

Background Documents

Local Audit and Accountability Act 2014

Local Audit (Appointing Person) Regulations 2015

1. Introduction

- 1.1 In 2017 the Council first took the decision to 'opt-in' to the national scheme for appointing auditors operated by PSAA. As the original appointment period heads towards conclusion the PSAA are seeking confirmation from all local government and police bodies that wish to opt-in for five years from 2023/2024.
- 1.2 The Local Government Association (LGA) believes the national framework remains the best option councils can choose. There are many reasons for favouring the national arrangements and LGA think those reasons have become more compelling since 2016/17 when councils were last asked to make this choice.
- 1.3 For some the way external audit has operated over the last couple of years has been disappointing. A lack of capacity in the audit market has been exacerbated by increased requirements placed on external auditors by the audit regulator. There is also a limited number of firms in the market and too few qualified auditors employed by those firms. This has led to a situation where many audits have been delayed and dozens of audit opinions remain outstanding from 2019/20 and 2020/21. Auditors have also been asking for additional fees to pay for extra work.
- 1.4 As the client in the contract, a council has little influence over what it is procuring. The nature and scope of the audit is determined by codes of practice and guidance and the regulation of the audit market is undertaken by a third party, currently the Financial Reporting Council. Essentially, councils have find themselves operating in what amounts to a suppliers' market with the client's interest at risk of being ignored unless local government and police bodies act together.
- 1.5 It is accepted that the supply side of the market needs to be expanded, which includes encouraging bids from challenger firms. The PSAA has suggested various ways this could be done, but these initiatives are much more likely to be successful if a large number of councils sign up to the national scheme. The LGA therefore believe it is vital that councils coordinate their efforts to ensure that the client voice is heard loud and clear. The best way of doing this across the country is to sign up to the national arrangement.
- 1.6 To summarise, the same arguments apply as at the time of the last procurement:
 - Procuring through the appointing person (PSAA) makes it easier for councils to demonstrate independence of process.
 - PSAA has now built up considerable expertise and has been working hard to address the issue that have arisen with the contracts over the last couple of years:
 - PSAA has the experience of the first national contract. The Government's selection of PSAA as the appointing person for a second cycle reflects MHCLG's confidence in them as an organisation.
 - PSAA has commissioned high quality research to understand the nature of the audit market.
 - It has worked very closely with MHCLG to enable the government to consult on changes to the fees setting arrangements to deal better with variations at

national and local level, hopefully resulting in more flexible and appropriate Regulations later this year

2. Options under consideration

- 2.1 An alternative option would be to procure and External Audit Service by ourselves however on assessment this provides no obvious benefits and has been discounted:
- A council procuring its own auditor or procuring through a joint arrangement means setting up an Audit Panel with an independent chair to oversee the procurement and running of the contract.
 - The procurement process is an administrative burden on council staff already struggling for capacity. Contract management is an ongoing burden.
 - The service being procured is defined by statute and by accounting and auditing codes, therefore the service we procured would be no different to that procured by PSAA
 - Possible suppliers are limited to the small pool of registered firms with accredited Key Audit Partners (KAP).
 - Since the last procurement it is now more obvious than ever that we are in a 'suppliers' market' in which the audit firms hold most of the levers.

3. Financial Opportunities and Implications

- 3.1 The fee for the External Auditors would be set by PSAA although there are benefits from economies of scale.

4. Legal Implications

- 4.1 The Local Audit and Accountability Act 2014 requires the Council to have an appointed auditor and requires such an appointment to be made via an auditor panel. The PSAA would undertake the burdensome process of such an appointment on behalf of the Council.

5. Engagement and Consultation

- 5.1 The Council has not undertaken any consultation in respect of this decision, it has to some extent been a consultee and provided feedback to the PSAA on the current arrangements.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 The procurement of an External Audit Service will be undertaken by the PSAA.

7. Tackling Climate Change

- 7.1 It is more than likely that a national auditing organisation would be appointed as the Council's External Auditor, however the Covid Pandemic has demonstrated that the virtual world can work for a number of auditing processes and it is anticipated that where suitable

virtual technology will continue to be utilised thereby reducing the carbon created by ‘in person’ meetings.

8. Associated Risks

- 8.1 If the Council decided not to accept the invitation to opt in by the closing date, the Council may subsequently make a request to opt in, but only after 1 April 2023. The PSAA would be required to consider such requests and agree to them unless there are reasonable grounds for their refusal. PSAA must consider a request as the appointing person in accordance with the Regulations. The Regulations allow PSAA to recover reasonable costs for making arrangements to appoint a local auditor in these circumstances, for example if PSAA needed to embark on a further procurement or enter into further discussions with the contracted firms.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			There is no differential impact
People with caring Responsibilities			There is no differential impact
People with a disability			There is no differential impact
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			There is no differential impact
Religion or belief (including lack of belief)			There is no differential impact
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact

People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			There is no differential impact

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

**Meeting: Audit Committee
Council**

**Date: 6th December 2021
9th December 2021**

Wards Affected: All Wards in Torbay

Report Title: Treasury Management Mid-Year Review 2021/22

Is the decision a key decision? No

When does the decision need to be implemented? Immediate

Cabinet Member Contact Details: Councillor Darren Cowell, Darren.Cowell@torbay.gov.uk

Supporting Officer Contact Details: Pete Truman, Principal Accountant,
pete.truman@torbay.gov.uk

1. Purpose and Introduction

- 1.1 This report provides Members with a review of Treasury Management activities during the first part of 2021/22. The Treasury function aims to support the provision of all Council services through management of the Council's cash flow and debt & investment operations.
- 1.2 The key points in the Treasury Management review are as follows:
- No new borrowing planned in 2021/22
 - Bank Rate expected to remain at 0.1% for 2021/22 (but with a risk of increase)
 - Investment rates close to zero
 - Internal cash resources applied to capital funding and loan repayments
 - Cash flow influenced by MLUH and BEIS grant and funding changes

2. Proposed Decision

Audit Committee

- 2.1 **that the Audit Committee provide any comments and/or recommendations on the Treasury Management decisions made during the first part of 2021/22**

Council

- 2.2 **that the Treasury Management decisions made during the first part of 2021/22 as detailed in this report be noted.**

3. Reason for Decision

- 3.1 The preparation of a mid-year review on the performance of the treasury management function forms part of the minimum formal reporting arrangements required by the CIPFA Code of Practice for Treasury Management.

Supporting Information

4. Position

- 4.1 In February 2019 the Council adopted the Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Council to approve treasury management semi-annual and annual reports.
- 4.2 The original Treasury Management Strategy for 2021/22 was approved by Council on 11th February 2021. The successful identification, monitoring and control of risk remains central to the Council's treasury management strategy.
- 4.3 The 2017 Prudential Code includes a requirement for local authorities to provide a Capital Strategy, a summary document approved by full Council covering capital expenditure and financing. The Capital Strategy, complying with CIPFA's requirement, was approved by full Council on 11th February 2021.
- 4.4 Treasury management decisions and strategies have been made in consultation with the Council's advisors, Arlingclose Ltd.

5. Economic Commentary

- 5.1 The significant economic events impacting the Treasury Management strategy during the year were:
- MPC has maintained Bank Rate at 0.1% because of the continued impact of the Covid-19 pandemic on the economy.
 - The potential use of negative interest rates has eased on the back of rising inflationary pressures
 - Market interest rates remain at little more than zero although the market has begun to price in increases.
- 5.2 A full economic commentary by Arlingclose Ltd is provided at Appendix 1 to this report.
- 5.3 The probability of an increase in the bank base rate has increased in recent months. However, at its November meeting the Bank of England chose to hold the rate but did signal that in the "coming months" rates would rise.

6 Local Context

- 6.1 On 31st March 2021, the Council had net borrowing of £314m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes

is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in Table 1 below.

Table 1: Balance Sheet Summary

	31.3.21 Actual £m
Total CFR	419.5
Less: Other debt liabilities (PFI only)	(16.8)
Loans CFR	402.7
External borrowing	391.5
Internal borrowing	11.2
Less: Usable reserves	(57.7)
Less: Working capital	(30.4)
Net Borrowing	314.6

- 6.2 Lower official interest rates have reduced the cost of short-term, temporary loans and investment returns from cash assets that can be used in lieu of borrowing. The Council pursued its strategy of keeping borrowing and investments below their underlying levels, i.e. internal borrowing, in order to reduce risk.
- 6.3 The treasury management position on 30th September 2021 and the change over the six months is shown in Table 2 below.

Table 2: Treasury Management Summary

	31.3.21 Balance £m	Movement £m	30.9.21 Balance £m	30.9.21 Rate %
Long-term borrowing	391.5	(0.2)	391.3	2.99
Short-term borrowing	0	0	0	0
Total borrowing	391.5	(0.2)	391.3	2.99
Long-term investments	5.0	0	5.0	4.30
Short-term investments	71.4	25.8	97.2	0.09
Cash and cash equivalents	0.8	9.7	10.5	0.01
Total investments	77.2	12.6	112.7	0.27

7. Borrowing Update

- 7.1 The Council's preferred lender is the Public Works Loan Board (PWLB). Local authorities can borrow from the PWLB provided they can confirm they are not planning to purchase 'investment assets primarily for yield' in the current or next two financial years, with confirmation of the purpose of capital expenditure from the Section 151 Officer. Authorities that are purchasing or intending to purchase investment assets

primarily for yield will not be able to access the PWLB except to refinance existing loans or externalise internal borrowing.

- 7.2 Acceptable use of PWLB borrowing includes service delivery, housing, regeneration, preventative action, refinancing and treasury management.
- 7.3 Competitive market alternatives may be available for authorities with or without access to the PWLB. However, the financial strength of the individual authority and borrowing purpose will be scrutinised by commercial lenders. Further changes to the CIPFA Prudential Code expected in December 2021 are likely to prohibit borrowing for the primary purpose of commercial return even where the source of borrowing is not the PWLB.
- 7.4 The Council is not planning to purchase any investment assets primarily for yield within the next three years and so is able to fully access the PWLB

Revised PWLB Guidance

- 7.5 HM Treasury published further guidance on PWLB borrowing in August 2021 providing additional detail and clarifications predominantly around the definition of an 'investment asset primarily for yield'. The principal aspects of the new guidance are:
- Capital plans should be submitted by local authorities via an online (DELTA) return. These open for the new financial year on 1st March and remain open all year. Returns must be updated if there is a change of more than 10%.
 - An asset held primarily to generate yield that serves no direct policy purpose should not be categorised as service delivery.
 - Further detail on how local authorities purchasing investment assets primarily for yield can access the PWLB for the purposes of refinancing existing loans or externalising internal borrowing.
 - Additional detail on the sanctions which can be imposed for inappropriate use of the PWLB loan. These can include a request to cancel projects, restrictions to accessing the PLWB and requests for information on further plans.

Changes to PWLB Terms and Conditions from 8th September 2021

- 7.6 The settlement time for a PWLB loan has been extended from two working days (T+2) to five working days (T+5). In a move to protect the PWLB against negative interest rates, the minimum interest rate for PWLB loans has also been set at 0.01% and the interest charged on late repayments will be the higher of Bank of England Base Rate or 0.1%.

8. Borrowing Strategy during the period

8.1 At 30th September 2021 the Council held £391.3m of loans, (a decrease of £0.3m) as part of its strategy for funding previous years' capital programmes. Outstanding loans on 30th September 2021 are summarised in Table 3 below.

Table 3: Borrowing Position

	31.3.21 Balance £m	Net Movement £m	30.9.21 Balance £m	30.9.21 Weighted Average Rate %	30.9.21 Weighted Average Maturity (years)
Public Works Loan Board	381.5	(0.2)	381.3	2.951	28
Banks (LOBO)	5.0	0	5.0	4.395	57
Banks (fixed-term)	5.0	0	5.0	4.700	53
Total borrowing	391.5	(0.2)	391.3	2.992	28

8.2 The Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the Council's long-term plans change being a secondary objective.

8.3 In keeping with these objectives, no new borrowing has been undertaken, while a £2m existing loan will likely be allowed to mature without replacement in December 2021. This strategy has enabled the Council to reduce net borrowing costs and reduce overall treasury risk.

8.4 Going forward - with short-term interest rates remaining much lower than long-term rates and temporary investments earning virtually zero, the most cost-effective strategy in the near term will be to use internal resources or short-term loans instead of long-term borrowing.

8.5 There is, however, some concern on the effect of market conditions (discussed in section 17 below). While these are expected to be short term the CFO may elect to vary the strategy and take some long-term borrowing earlier than anticipated to balance risks.

8.6 The Council will continue to review its options for borrowing such as via the Municipal Bonds Agency and/or the UK Infrastructure Bank

9 Treasury Investment Activity

9.1 The Council has continued to receive central government funding to support small and medium businesses during the coronavirus pandemic through grant schemes. Over £20M was received in April 2021, temporarily invested in short-dated, liquid instruments such as call accounts and Money Market Funds. £17m was disbursed by the end of September.

- 9.2 The balance along with significant levels of other residual Covid-19 related grants still held on 30th September 2021 will be recalled by central government in the coming months.
- 9.3 The investment position is shown in table 4 below.

Table 4: Treasury Investment Position

	31.3.21 Balance £m	Net Movement £m	30.9.21 Balance £m	30.9.21 Income Return %	30.9.21 Weighted Average Maturity days
Banks & Building Societies	22.8	15.7	38.5	0.06	26
Government	26.0	16.0	42.0	0.01	19
Local Authorities	5.0	0	5.0	1.00	49
Money Market Funds	14.4	3.8	18.2	0.2	1
Other Pooled Funds:					
- Short-dated bond funds	4.0	0	4.0	0.20	-
- Property fund	4.7	0.2	4.9	4.46	-
Total Investments	76.9	35.7	112.6	0.27	20

- 9.4 Both the CIPFA Code and government guidance require the Council to invest its funds prudently, and to have regard to the security and liquidity of its treasury investments before seeking the optimum rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income. In these uncertain economic times, the Council will keep an emphasis on the security of its investments.
- 9.5 Ultra-low short-dated cash rates, which have been a feature since March 2020 when Bank Rate was cut to 0.1%, have resulted in the return on sterling low volatility net asset value money market funds (LVNAV MMFs) being at or close to zero even after some managers have temporarily waived or lowered their fees. At this stage net negative returns are not the central case of most MMF managers over the short-term, and fee cuts or waivers should result in MMF net yields having a floor of zero, but the possibility cannot be ruled out.
- 9.6 Deposit rates with the Debt Management Account Deposit Facility (DMADF) are also largely around zero.
- 9.7 In light of the adopted strategy of internal borrowing and with cash balances inflated by grants payable/(repayable) to third parties, the Council kept more cash available at very short notice than is normal. Liquid cash was diversified over several counterparties and Money Market Funds to manage both credit and liquidity risks. The result of this policy is reflected in the total return of 0.27%.
- 9.8 **Externally Managed Pooled Funds:** £5m of the Council's investments are held in the CCLA Local Authorities Property Fund where short-term security and liquidity are lesser considerations, and the objectives instead are regular revenue income and long-term price stability. The fund has generated an average income return to date of £105k (4.46%), which is used to support services in year. There was a capital gain of £328k

on the year opening fund value at the end of Q2 which counteract losses in 2020/21 from the pandemic.

- 9.9 Because the Council's externally managed fund has no defined maturity date, but is available for withdrawal after a notice period, its performance and continued suitability in meeting the Council's investment objectives is regularly reviewed. Strategic fund investments are made in the knowledge that capital values will move both up and down on months, quarters and even years; but with the confidence that over a three- to five-year period total returns will exceed cash interest rates.

10 Non-Treasury Investments

- 10.1 The definition of investments in CIPFA's revised Treasury Management Code now covers all the financial assets of the Council as well as other non-financial assets which the Council holds primarily for financial return. This is replicated in the Investment Guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG) in which the definition of investments is further broadened to also include all such assets held partially for financial return.
- 10.2 A full list of the Council's non-treasury investments is provided at Appendix 2 to this report

11 Impact of Treasury Performance on the Revenue Budget

- 11.1 The net revenue budget for treasury management is projected to be underspent after the suspension of new borrowing and use of internal resources to fund capital expenditure in the near term.

Table 5: Revenue Budget Performance

As at end September 2021	Current Budget 2021/22	Projected Outturn 2021/22	Variation
	£M	£M	£M
Investment Income	(0.3)	(0.3)	0.0
Interest Paid on Borrowing	11.8	11.7	(0.1)
Net Position (Interest)	11.5	11.4	(0.1)
Minimum Revenue Provision	7.6	7.5	(0.1)
Net Position (Other)	7.6	7.5	(0.1)
Net Position Overall	19.1	18.9	(0.2)

12 Compliance

- 12.1 The Chief Finance Officer reports that all treasury management activities undertaken during the quarter complied fully with the CIPFA Code of Practice and the Council's approved Treasury Management Strategy.

12.2 Compliance with the authorised limit and operational boundary for external debt is demonstrated in table 6 below.

Table 6: Debt Limits

	Maximum in period	30.9.21 Actual	2021/22 Operational Boundary	2021/22 Authorised Limit	Complied?
Borrowing	£391.5m	£391.3m	£590m	£700m	Yes
PFI and Finance Leases	£16.8m	£16.8m	£20m	£20m	Yes
Total debt	£408.3m	£408.1m	£610m	£720m	Yes

12.3 Since the operational boundary is a management tool for in-year monitoring it is not significant if the operational boundary is breached on occasions due to variations in cash flow, and this is not counted as a compliance failure. Total debt did not exceed the operational boundary during the period.

12.4 The Head of Finance confirms that the approved limits set in accordance with the Annual Investment Strategy and varied temporarily by him under delegated powers were not breached during the period of this report. Detail in table 7 below

Table 7: Investment Limits

	Maximum in period	30.9.21 Actual	2021/22 Limit (Highest in period)	Complied? Yes/No
Any single organisation, except the UK Government	£15M	£10M	£15M	Yes
Any group of organisations under the same ownership	£17M	£17M	£18M	Yes
Money Market Funds	£15	£9m	£15M	Yes

13 Treasury Management Indicators

13.1 The Council measures and manages its exposures to treasury management risks using the following indicators.

13.2 **Security:** The Authority has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit score of its investment portfolio. This is calculated by applying a score to each investment rating (AAA=1, AA+=2,.....A=6 etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	30.9.21 Actual	2021/22 Target	Complied?
Portfolio average credit score	4.5	6	Yes

- 13.3 **Liquidity:** The Authority has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available to meet unexpected payments within a rolling one-month period, without additional borrowing.

	30.9.21 Actual	2021/22 Target	Complied?
Total cash available within 1 month	£64M	£15m	Yes

- 13.4 **Interest Rate Exposures:** This indicator is set to control the Authority's exposure to interest rate risk. The limits set in the original strategy recognised the majority of current borrowing as fixed (no effect of a 1% change) and the potential for investment rates to turn negative. During the year no new borrowing has been undertaken (maintaining no exposure to variable rates) and inflationary pressures have all but removed the threat of negative rates on investments.

- 13.5 **Maturity Structure of Borrowing:** This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of all borrowing were:

	30.9.21 Actual	Upper Limit	Lower Limit	Complied?
Under 12 months	1%	0%	40%	Yes
12 months and within 24 months	1%	0%	40%	Yes
24 months and within 5 years	4%	0%	30%	Yes
5 years and within 10 years	9%	0%	40%	Yes
10 years and within 20 years	17%	0%	50%	Yes
20 years and within 30 years	8%	0%	60%	Yes
30 years and within 40 years	35%	0%	50%	Yes
40 years and above	25%	0%	50%	Yes

- 13.5 **Principal Sums Invested for Periods Longer than a year:** The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end were:

	2021/22	2022/23	2023/24
Actual principal invested beyond year end	£5m	£5m	5m
Limit on principal invested beyond year end	£20m	£20m	£20m
Complied?	Yes	Yes	Yes

14 Revisions to CIPFA Codes

- 14.1 In February 2021 CIPFA launched two consultations on changes to its Prudential Code and Treasury Management Code of Practice. These followed the Public Accounts Committee's recommendation that the prudential framework should be further tightened following continued borrowing by some authorities for investment purposes. In June, CIPFA provided feedback from this consultation.
- 14.2 In September CIPFA issued the revised Codes and Guidance Notes in draft form and opened the latest consultation process on their proposed changes. The changes include:
- Clarification that (a) local authorities must not borrow to invest primarily for financial return (b) it is not prudent for authorities to make any investment or spending decision that will increase the Capital Financing Requirement, and so may lead to new borrowing, unless directly and primarily related to the functions of the authority.
 - Categorising investments as those (a) for treasury management purposes, (b) for service purposes and (c) for commercial purposes.
 - Defining acceptable reasons to borrow money: (i) financing capital expenditure primarily related to delivering a local authority's functions, (ii) temporary management of cash flow within the context of a balanced budget, (iii) securing affordability by removing exposure to future interest rate rises and (iv) refinancing current borrowing, including replacing internal borrowing.
 - For service and commercial investments, in addition to assessments of affordability and prudence, an assessment of proportionality in respect of the authority's overall financial capacity (i.e. whether plausible losses could be absorbed in budgets or reserves without unmanageable detriment to local services).
 - Prudential Indicators
 - New indicator for net income from commercial and service investments to the budgeted net revenue stream.
 - Inclusion of the liability benchmark as a mandatory treasury management prudential indicator. CIPFA recommends this is presented as a chart of four balances – existing loan debt outstanding; loans CFR, net loans requirement, liability benchmark – over at least 10 years and ideally cover the authority's full debt maturity profile.
 - Excluding investment income from the definition of financing costs.
 - Incorporating ESG issues as a consideration within TMP 1 Risk Management.
 - Additional focus on the knowledge and skills of officers and elected members involved in decision making

15 MHCLG Improvements to the Capital Finance Framework

- 15.1 MHCLG published a brief policy paper in July outlining the ways it feels that the current framework is failing and potential changes that could be made. The paper

found that “while many authorities are compliant with the framework, there remain some authorities that continue to engage in practices that push the bounds of compliance and expose themselves to excessive risk”.

15.2 The actions announced include greater scrutiny of local authorities and particularly those engaged in commercial practices; an assessment of governance and training; a consideration of statutory caps on borrowing; further regulations around Minimum Revenue Provision (MRP) and ensuring that MHCLG regulations enforce guidance from CIPFA and the new PWLB lending arrangements.

15.3 A further consultation on these matters is expected soon.

16 Other

16.1 **IFRS 16:** The implementation of the new IFRS 16 Leases accounting standard is now expected to be from April 2022.

17 Outlook for the remainder of 2021/22 (Arlingclose Ltd – October 2021)

	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24
Official Bank Rate													
Upside risk	0.00	0.15	0.00	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
Arlingclose Central Case	0.10	0.10	0.25	0.25	0.25	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
Downside risk	0.00	0.00	0.15	0.15	0.15	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40

17.1 Bank Rate is expected to remain at 0.10% for the rest of the current year with a rise in Q2 2022. Arlingclose believe this is driven as much by the Bank of England’s desire to move from emergency levels as by fears of inflationary pressure. (At its meeting in November the Bank of England held the Bank Rate at 0.10% but advised will need to rise “over coming months” to meet target.)

17.2 Investors have priced in multiple rises in Bank Rate to 1% by 2024. While Arlingclose believes Bank Rate will rise, it is by a lesser extent than expected by markets.

17.3 The global economy continues to recover from the pandemic but has entered a more challenging phase. The resurgence of demand has led to the expected rise in inflationary pressure, but disrupted factors of supply are amplifying the effects, increasing the likelihood of lower growth rates ahead. This is particularly apparent in the UK due to the impact of Brexit.

17.4 Gilt yields have risen sharply as investors factor in higher interest rate and inflation expectations. From here, Arlingclose believe that gilt yields will be broadly steady, before falling as inflation decreases and market expectations align with their forecast.

17.5 The risk around the forecasts for Bank Rate is to upside over the next few months, shifting to the downside in the medium term. The risks around the gilt yield forecasts are initially broadly balanced, shifting to the downside later.

Appendices

Appendix 1: Economic commentary

Appendix 2: Non-Treasury Management Investments

Additional Information

[Treasury Management Strategy 2021/2022](#)

Appendix 1

Economic background (provided by Arlingclose Ltd, October 2021)

The economic recovery from coronavirus pandemic continued to dominate the first half of the financial year. By the end of the period over 48 million people in the UK had received their first dose of a COVID-19 vaccine and almost 45 million their second dose.

The Bank of England (BoE) held Bank Rate at 0.1% throughout the period and maintained its Quantitative Easing programme at £895 billion, unchanged since the November 2020 meeting. In its September 2021 policy announcement, the BoE noted it now expected the UK economy to grow at a slower pace than was predicted in August, as the pace of the global recovery had shown signs of slowing and there were concerns inflationary pressures may be more persistent. Within the announcement, Bank expectations for GDP growth for the third (calendar) quarter were revised down to 2.1% (from 2.9%), in part reflecting tighter supply conditions. The path of CPI inflation is now expected to rise slightly above 4% in the last three months of 2021, due to higher energy prices and core goods inflation. While the Monetary Policy Committee meeting ended with policy rates unchanged, the tone was more hawkish.

Government initiatives continued to support the economy over the quarter but came to an end on 30th September 2021, with businesses required to either take back the 1.6 million workers on the furlough scheme or make them redundant.

The latest labour market data showed that in the three months to July 2021 the unemployment rate fell to 4.6%. The employment rate increased, and economic activity rates decreased, suggesting an improving labour market picture. Latest data showed growth in average total pay (including bonuses) and regular pay (excluding bonuses) among employees was 8.3% and 6.3% respectively over the period. However, part of the robust growth figures is due to a base effect from a decline in average pay in the spring of last year associated with the furlough scheme.

Annual CPI inflation rose to 3.2% in August, exceeding expectations for 2.9%, with the largest upward contribution coming from restaurants and hotels. The Bank of England now expects inflation to exceed 4% by the end of the calendar year owing largely to developments in energy and goods prices. The Office of National Statistics' (ONS') preferred measure of CPIH which includes owner-occupied housing was 3.0% year/year, marginally higher than expectations for 2.7%.

The easing of restrictions boosted activity in the second quarter of calendar year, helping push GDP up by 5.5% q/q (final estimate vs 4.8% q/q initial estimate). Household consumption was the largest contributor. Within the sector breakdown production contributed 1.0% q/q, construction 3.8% q/q and services 6.5% q/q, taking all of these close to their pre-pandemic levels.

The US economy grew by 6.3% in Q1 2021 (Jan-Mar) and then by an even stronger 6.6% in Q2 as the recovery continued. The Federal Reserve maintained its main interest rate at between 0% and 0.25% over the period but in its most recent meeting made suggestion that monetary policy may start to be tightened soon.

The European Central Bank maintained its base rate at 0%, deposit rate at -0.5%, and asset purchase scheme at €1.85 trillion.

Financial markets: Monetary and fiscal stimulus together with rising economic growth and the ongoing vaccine rollout programmes continued to support equity markets over most of the period, albeit with a bumpy ride towards the end. The Dow Jones hit another record high while the UK-focused FTSE 250 index continued making gains over pre-pandemic levels. The more internationally focused FTSE 100 saw more modest gains over the period and remains below its pre-crisis peak.

Inflation worries continued during the period. Declines in bond yields in the first quarter of the financial year suggested bond markets were expecting any general price increases to be less severe, or more transitory, that was previously thought. However, an increase in gas prices in the UK and EU, supply shortages and a dearth of HGV and lorry drivers with companies willing to pay more to secure their services, has caused problems for a range of industries and, in some instance, lead to higher prices.

The 5-year UK benchmark gilt yield began the financial year at 0.36% before declining to 0.33% by the end of June 2021 and then climbing to 0.64% on 30th September. Over the same period the 10- year gilt yield fell from 0.80% to 0.71% before rising to 1.03% and the 20-year yield declined from 1.31% to 1.21% and then increased to 1.37%.

The Sterling Overnight Rate (SONIA) averaged 0.05% over the quarter.

Credit review: Credit default swap spreads were flat over most of period and are broadly in line with their pre-pandemic levels. In late September spreads rose by a few basis points due to concerns around Chinese property developer Evergrande defaulting but are now falling back. The gap in spreads between UK ringfenced and non-ringfenced entities continued to narrow, but Santander UK remained an outlier compared to the other ringfenced/retail banks. At the end of the period Santander UK was trading the highest at 53bps and Lloyds Banks Plc the lowest at 32bps. The other ringfenced banks were trading between 37-39bps and Nationwide Building Society was 39bps.

Over the period Fitch and Moody's upwardly revised to stable the outlook on a number of UK banks and building societies on our counterparty list, recognising their improved capital positions compared to last year and better economic growth prospects in the UK.

Fitch also revised the outlooks for Nordea, Svenska Handelsbanken and Handelsbanken plc to stable from negative. The rating agency considered the

improved economic prospects in the Nordic region to have reduced the baseline downside risks it previously assigned to the lenders.

The successful vaccine rollout programme is credit positive for the financial services sector in general and the improved economic outlook has meant some institutions have been able to reduce provisions for bad loans. While there is still uncertainty around the full extent of the losses banks and building societies will suffer due to the pandemic-related economic slowdown, the sector is in a generally better position now compared to earlier this year and 2020.

At the end of the period Arlingclose had completed its full review of its credit advice on unsecured deposits. The outcome of this review included the addition of NatWest Markets plc to the counterparty list together with the removal of the suspension of Handelsbanken plc. In addition, the maximum duration for all recommended counterparties was extended to 100 days.

As ever, the institutions and durations on the Council's counterparty list recommended by treasury management advisors Arlingclose remain under constant review.

Document is Restricted

**Standing Order D11 (in relation to Overview and Scrutiny) – Call-in and Urgency
Council Meeting, 9 December 2021**

In accordance with Standing Order D11, the call-in procedure does not apply where the executive decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests.

Before deciding whether a decision is urgent the decision making person or body must consult the Overview and Scrutiny Co-ordinator, or in his absence either:

- (a) (if the decision is a Key Decision and Standing Order E14 (General Exception) applies) each member of the Overview and Scrutiny Board shall be consulted; or
- (b) (in all other cases) the Civic Mayor, or (if there is no Civic Mayor appointed) the Deputy Civic Mayor, shall be consulted.

Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council, together with the reasons for urgency and a summary of the consultation undertaken.

The table below sets out this information:

Matter for decision	Decision-taker	Reasons for urgency	Consultation
Bus Service Improvement Plan	The Cabinet	<p>The Cabinet took a decision, at its meeting held on 19 October 2021, to agree to the principles, and general support for the publication, of the first Torbay Bus Service Improvement Plan, as part of the ongoing process in response to the National Bus Strategy.</p> <p>The decision taken by the Cabinet needed to be implemented immediately as any delay likely to be caused by the call-in process would prejudice the public's interests.</p>	The Overview and Scrutiny Co-ordinator was consulted on 5 October 2021.