



# Licensing Statement of Principles 2016 - 2021

Licensing Act 2003

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**The 'Licensing Statement of Principles 2016-2021 was ratified and adopted by Full Council on 10 December 2015.**

## **Torbay Council's Statement of Principles 2016-2021**

### **Introduction**

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

This document is Torbay Council's "Statement of Principles", made under Section 5 of the Licensing Act 2003, and has effect for the period of 7 January 2016 to 6 January 2021.

Torbay is a popular well-established holiday destination situated on the South Devon Coast, on the South West peninsular of England. It has a population of over 130,000 which can increase to over 200,000 in the summer months.

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

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

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# MAP of TORBAY



**This Statement of Principles is set out in the following sections:**

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

**If you require this document in another format please call 01803 208 025 or email [licensing@torbay.gov.uk](mailto:licensing@torbay.gov.uk).**

## STATEMENT OF PRINCIPLES

This Statement of Principles applies to the regulation of the following licensable activities at premises, vessels and members' clubs:

- (i) the sale by retail of alcohol;
- (ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- (iii) the provision of regulated entertainment to the public, to club members or with a view to profit;
- (iv) The supply of hot food and/or hot drink between 23:00 and 05:00.

This fourth Statement is made following consultation with:

- a) The Chief Officer of Devon and Cornwall Police
- b) The Chief Officer of Devon and Somerset Fire and Rescue Service
- c) The Director of Public Health
- d) Residents and businesses of Torbay
- e) Bodies representing businesses
- f) Holders of Premises Licences and Club Premises Certificates
- g) Bodies representing existing registered clubs
- h) Bodies representing holders of existing Premises Licences and Personal Licences
- i) Torbay and Southern Devon Health & Care NHS Trust
- j) Torbay Council: Children's Services
- k) Torbay Council: Planning, Environmental Health and Highways Authorities
- l) The Torbay Safer Communities Partnership
- m) The Maritime and Coastguard Agency
- n) Faith groups via Torbay Interfaith Forum and the Street Pastors
- o) Torbay Development Agency
- p) English Riviera Tourism Company
- q) Tor Bay Harbour Authority

The aim of this Statement is to secure the safety and amenity of residential and business communities whilst facilitating a sustainable entertainment and cultural industry. In adopting this Statement, Torbay Council recognises both the needs of residents and those businesses not covered by the provisions of the Licensing Act 2003 (the "Act") to live and operate in a safe and healthy environment and the important role that well run licensed premises play in the local economy and in contributing to vibrancy of the Bay. To achieve this aim, the Council is committed to working in continued partnership with nominated Responsible Authorities under the Act, local businesses, and members of the licensed trade, residents and visitors to the Bay to promote the licensing objectives as set out in this Statement.

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

1.1 The Council, as the Licensing Authority, has a duty under the Act to carry out its licensing functions with a view to promoting the four Licensing Objectives set out below:

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

1.2 The Council will treat each Licensing Objective with equal importance.

1.3 While this “Licensing Statement of Principles” sets out a general approach to making licensing decisions, it does not ignore or is inconsistent with provisions in the Act. The Statement does not undermine the right of any individual to apply under the terms of the Act for a variety of permissions or to have any such application considered on its individual merits.

1.4 This Statement of Principles does not override the right of any person to make Representations on an application or to seek a Review of a licence or certificate where a provision has been made for them to do so in the Act.

1.5 Where an application is made and there are no relevant Representations, the application will be granted subject only to conditions reflecting the operating schedule and any mandatory conditions. Where there are relevant Representations, the Licensing Authority, will grant the application unless it is necessary to refuse it or impose a condition in order to promote one or more the Licensing Objectives. Conditions imposed will be reasonable and proportionate

1.6 In recognition of its responsibilities under Section 17 of the Crime and Disorder Act 1998, and within the strategic aims of the Safer Communities Torbay Strategic Assessment, the Council will do all that is reasonable to prevent crime and disorder in Torbay.

1.7 The Council recognises its responsibilities to individuals under the European Convention on Human Rights, set out by the Human Rights Act 1998, and its statutory role as a Licensing Authority to fulfil the duties and responsibilities vested in it.

- 1.8 The Council is also aware of its responsibilities to individuals under the Equality Act 2010, to have regard to the elimination of unlawful discrimination and its duty to promote equality of opportunity regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. This Act replaces previous legislation (such as the Race Relation Act 1976, Disability Discrimination Act 1995).
- 1.9 The Council is committed to achieving good outcomes for children, young people and their families. Children of all ages need to be kept safe from harm and safeguarding is about making sure that they are protected from all kinds of harm, not only physical and sexual but also psychological, emotional and moral harm. Where there is a risk it is important that steps are taken to keep children safe and the Licensing Authority will have regard to this when considering applications under the Licensing Objectives.
- 1.10 The Council is aware that effective licensing can only be achieved by recognising the value of all contributions. The Licensing Authority strongly supports inclusivity and working in partnership with the Police and other Responsible Authorities, local businesses, performers, local people, professionals involved in child protection and all others who can contribute positively to the successful promotion of the four Licensing Objectives. The Licensing Authority encourages membership of local schemes such as NiteNet, Pub watch or StoreNet and values the contribution such schemes make to the fulfilment of the Licensing Objectives.
- 1.11 The Council's licensing decisions will be taken within the context of all strategies to which it is a signatory and will have regard to the potential impact its decisions may have on those strategies, providing these are not contradictory to the requirements of the Licensing Act 2003.
- 1.12 The Council considers that its licensing decisions can be a key factor in the control of anti-social behaviour. Whilst accepting that it will not use licensing conditions to control anti-social behaviour by individuals once they are away from the licensable premises or place and beyond the direct control of the licensee, it does as a matter of policy expect every holder of a licence issued under this Act to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their Premises. They will require licence holders to demonstrate that they have taken and intend to take appropriate action in this respect. Any conditions attached to licences will be within the control of the individual licensees and others in possession of relevant authorisations, and will primarily focus on the direct impact of the activities taking place at the Licensed Premises on members of the public living, working or engaged in lawful activity in the area concerned.

- 1.13 The Council will not adopt blanket Policies of zoning to fix the trading hours of Licensed Premises. However, where it is necessary to promote one or more of the Licensing Objectives, the Licensing Authority will attach conditions to the Premises Licence to control a Premises' trading hours. Such conditions will be imposed where there is supporting evidence to demonstrate necessity.
- 1.14 The Council is satisfied, having been advised by and provided with supporting data from Devon and Cornwall Police that the night time leisure economy is on occasions subject to crime and disorder problems which can lead to noise disturbance in some residential and commercial accommodation areas. Therefore the Council has as part of this Policy included a Special Saturation Policy (otherwise known as a Cumulative Impact Policy) where an application for a new Licence, or variation of an existing Licence, would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area. This Special Saturation Policy will apply to all Premises in the areas designated in Appendix 1 to this Policy, when the sale of alcohol is proposed and relevant Representations are received from a Responsible Authority or an Interested Party and are upheld as relevant following a hearing.
- 1.15 Premises which are permitted to provide sales of alcohol for consumption off the Premises may be subject to conditions that limit trading hours and restrict types and minimum quantities of alcohol where either the Premises or the area in which the Premises intends to trade, are known to be a focus for disorder and disturbance. A decision to impose such conditions will be subject to a relevant Representation being received and where there is supporting evidence to demonstrate necessity.
- 1.16 In the case of age classifications for films, the Policy of the Council is to follow the recommendations of the British Board of Film Classification for most purposes, whilst retaining the right to allocate a classification of its own to a particular film or to modify the advisory information proposed for use in connection with that film or the mechanism proposed for communicating that information.
- 1.17 Any necessary decisions in relation to planning legislation will be made completely independently of those made in respect of Licensing Act applications.
- 1.18 The Council's Licensing Committee will receive regular reports on decisions made by Officers under the provisions of the scheme of delegation so that it maintains an overview of the general situation.

1.19 The Council will actively encourage a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays. Premises specifically catering for young people in a safe, alcohol-free environment should be encouraged and promoted for the wider cultural benefit of the community in Torbay. The Council will seek to monitor the impact of licensing on the provision of regulated entertainment and particularly on live music and dancing in Torbay. Some departments within Torbay Council have obtained Licences for specified public open spaces and Premises so that the benefit of any Licence granted can be conveyed by the licence-holding department to authorised entertainers and performers within the event site. The Council's Licensing Committee will consider such applications from an entirely neutral standpoint. It will also consider carefully any Representation that the licensing regime is adversely affecting the provision of live music and dancing as regulated entertainments in Torbay and will only impose restrictions that are necessary, proportionate and reasonable as licensing conditions.

1.20 The Council recognises that proper integration with local crime prevention, planning, transport, tourism and cultural strategies is essential to assist in the reduction of public disorder and disturbances. The Council will ensure that future local transport plans reflect the need to disperse people from town centres swiftly and safely, particularly late at night, so as to avoid concentrations which may produce disorder and disturbance.

1.21 The Council recognises that licensing seeks:

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

1.22 The Council is against the use of illegal drugs, or psychoactive substances (otherwise known as 'legal highs') and recognises the importance of the Home Office document 'Safer Clubbing'. It does aim through the licensing process to:

- a) **Prevent** drug dealing in Licensed Premises.
- b) **Minimise** drug availability and their use.
- c) **Safeguard** all members of the public attending events by requiring, through imposition of appropriate licence conditions, the provision of a secure and safe environment for such events to take place.

- 1.23 The Council recommends that all applicants seeking to supply alcohol should have had regard to, 'The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks'.
- 1.24 The Council is aware that clear enforcement protocols for licensing and associated activities are essential and will work closely with the Police, Fire Service and other partners and through its Safety Advisory Group to establish and review Protocols that ensure an efficient deployment of Police, Council Officers and others engaged in enforcement of licensing and other relevant legislation, in order to ensure that resources are targeted at problem and high risk Premises and events.
- 1.25 This Statement of Principles will be reviewed at least once in every five years by the Council. The Special Saturation Policy will also be kept under review by the Council and considered at least five years after the initial adoption or sooner in the Council requires it, to see whether it has the effect intended and is still needed.

## **SECTION 2 - Primary considerations when an application is made**

### **The Licensing Authority will:**

- 2.1 Deal with all applications within the statutory timescales.
- 2.2 Where relevant representations are received, consider each application:
  - a) on its own merits,
  - b) in accordance with the Act, any subsequent amendments and supporting Regulations,
  - c) with regard to Guidance issued under Section 182 of the Act,
  - d) under the terms of this Policy.
- 2.3 Expect the Applicant to submit an Operating Schedule that properly addresses the impact their application may have on their neighbours or their surrounding communities, to ensure that each of the relevant Licensing Objectives is promoted. This is particularly relevant in the following circumstances:
  - (i) Crime and disorder arising out of the night time economy;
  - (ii) Noise from patrons and regulated entertainment where Premises are in close proximity to residential properties and have later opening times;
  - (iii) Public safety matters for higher risk activities and one-off events; and
  - (iv) Public safety matters arising out of unmanaged occupancy levels. (See Appendix 3 for further information)
- 2.4 Consider the specific proposals regarding the requested licensing hours. It is important to note that “opening hours”, the times when premises are open to the public, are not necessarily identical to the hours during which licensable activities may take place.
- 2.5 Recommend, in the case of applications for Premises Licences or Club Premises Certificates that the activity sought by the applicant has a lawful planning use. Where an application is submitted to permit licensable activities, the Applicant will need to be mindful of other restrictions that may affect the use of such a grant e.g. where a terminal hour has been set by planning permission for commercial use of the Premises. Where these hours are different to the licensing hours, it will be for the Applicant to ensure compliance with the earlier time’.
- 2.6 Expect Applicants to indicate whether or not the area to be licensed includes or comprises part of the public highway. This must be included on any plan submitted as part of an application. The Council supports a continental café culture which makes a positive contribution to the street-scene and to the

vitality of shopping and tourist areas bringing life, colour and interest on to the street. The Council may grant permission under Section 115E of the Highways Act 1980 for an applicant to use the public highway outside of the Premises for placing tables and chairs but the use of such an area will be subject to separate application, requirements and conditions under provisions of the Highways Act 1980.

2.7 Describe as '**Special Risk Entertainment**' events that incorporate any of the following activities for the entertainment or attraction of the public:

- a) hypnotism (as defined by the Hypnotism Act 1952);
- b) striptease, lap dancing or any similar performance (see note below \*);
- c) the installation of strobe or laser equipment;
- d) the use of special effects such as pyrotechnics (Fireworks) or the introduction to any area occupied by the public of naked flame or any material, vapour, liquid, foam or novelty foodstuff;
- e) the use of any temporary structure or staged area;
- f) sporting events that carry higher than normal risks, e.g. cage fighting;

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

\* The Policing and Crime Act 2009 became law in November 2009, amending Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 so as to incorporate 'sexual entertainment venues' as sex establishments governed by the Act as amended. Torbay Council adopted the legislation in so far as it relates to sexual entertainment venues on the 2<sup>nd</sup> December 2010. Under the Act as amended, premises offering lap dancing or any live sexual performance or display of nudity on more than 11 occasions within a 12 month period or less than one month since the last performance will be required to obtain a sexual entertainment venue licence from the Council's Licensing Authority to authorise such activity. Torbay Council has drawn up a statement of Licensing Policy for Sex Entertainment Venues which was agreed by Licensing Committee on the 17<sup>th</sup> March 2011.

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

Where there are no relevant Representations, the application will be granted as applied for, subject to conditions which reflect the Operating Schedule and any mandatory conditions. Where there is a relevant Representation, the application will usually proceed to a contested hearing, following which the Licensing Authority may take such steps as are necessary to promote the Licensing Objectives. In considering the application, the Licensing Authority will have regard to the matters set out below. In order to reduce the risk of relevant Representations and the cost and delay of a contested hearing, Applicants are strongly recommended to consult with the relevant Responsible Authority, consider the matters set out below and incorporate them as necessary into their Operating Schedule

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

#### **3.1 THE PREVENTION OF CRIME AND DISORDER**

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

capacity of 500 or more, the provision of a police drugs box and register.

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

Licence Holders should consider:

- (a) Recruiting SIA (**Security Industry Authority**) licensed door supervision staff from a company that is compliant with the requirements set out in the Security Industry Authority Approved Contactor Scheme (visit the SIA website [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk) for further information); and
- (b) What measures will be taken and what procedures are in place for licensees to check the SIA register of licensed door supervisors to ensure their Premises and patrons are only protected by door supervisors with an SIA licence. Torbay Council recommends the use of the SIA Company Licence Checker facility (visit the SIA website [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk) for further information).
- (iv) **Prevent** the use of glass bottles and drinking glasses being used as weapons and inflicting more serious harm during incidents of disorder. Consideration needs to be given to the location and style of the Premises/event, the times of opening, as well as features such as outside roof terraces, indoor sporting events, and televised sporting events.

- (v) **Facilitate** effective communications by means of text or radio pagers or other means to enable instant contact with local Police, CCTV Monitoring Room or between Licensed Premises in a locality to warn of situations of disorder or potential disorder.
- (vi) **Demonstrate** a responsible approach to alcohol sales by ending alcohol sales by a time specified in the application that is some time before the Premises themselves are closed, and by not taking part in heavily 'discounted drinking' promotions. At the start of 2010, Parliament approved The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. This attaches two conditions to all Premises Licences and Club Premises Certificates where alcohol is sold or supplied on the Premises (see Appendix 4).
- (vii) **Reduce** the risk of excessive alcohol consumption by providing and promoting reasonably priced soft drinks and, as required as a mandatory condition, to provide free drinking water at all bars (see Appendix 3). The provision of free potable (safe to drink) water is a mandatory condition (see Appendix 4).
- (viii) **Reducing** the risk of crime and disorder being caused by street drinkers, who are or appear to be alcohol dependent. This may be particularly relevant to Premises that are permitted to provide sales of alcohol for consumption off the Premises, which are located in areas where concerns about street drinkers have been identified by Responsible Authorities or within the area defined in the Cumulative Impact Policy. Such Premises may be required not to stock or sell high strength or types of cheap ciders, beers or lagers or to sell single unit items, i.e. cans that are split from an original multi pack or other such packaging.
- (ix) **Manage** the Premises safely by the provision of sufficient SIA registered door staff following a detailed risk assessment (see Appendix 3 for further information)
- (x) **Impose**, when necessary, a maximum allowable occupancy for an event, Premises or part or parts of Premises in the interests of public safety or for the prevention of crime and disorder.
- (xi) **Impose**, as appropriate, a requirement for the maintenance of a daily premises register of SIA registered door stewards (see Appendix 3 for further information)

- (xii) **Impose**, as appropriate, an incident log to record telephone calls, complaints and refusals for entry (see Appendix 3 for further information).
  - (xiii) **Ensure** that the Premises Licence Holder or the Designated Premises Supervisor takes all reasonable steps to ensure that staff employed at the Premises are, trained so that they understand the requirements of both the Premises Licence/Club Premises Certificate and the broad provisions of the Licensing Act 2003.
  - (xiv) **Require** that all staff in premises selling alcohol after midnight shall be trained and hold, within three months of the commencement of their employment, BIIAB Level 1 Award in Responsible Alcohol Retailing.
  - (xv) **Require** where deemed necessary by a Responsible Authority premises selling alcohol after midnight shall use a breath box to randomly test and refuse entry to customers where it is believed that they are heavily intoxicated, and to randomly test customers within the premises to ensure that there is no excessive drunkenness.
  - (xvi) **Impose**, as appropriate, a requirement for a Policy to ensure that there is a safe area for leaving drinks when customers leave the Premises temporarily, e.g. to smoke.
- c) **Reduce** the likelihood of any violence, public disorder or Policing problems that may arise if a licence is granted.
  - d) **Implementing** the outcomes of consultations held by the Applicant, in respect of their application and submitted Operating Schedule, with the Devon and Cornwall Constabulary including any recommendations made by the Constabulary's Architectural Design Liaison Officer.
  - e) **Expected** attendance and participation at local licensing forums and high risk event meetings.

### 3.2 PUBLIC SAFETY

- a) The adequacy of measures proposed to deal with the **promotion of public safety** and in particular, the steps taken by, or the proposals of, the applicant to:
  - (i) **Assess** the risks to the public, staff and others associated with operating the Premises or event in accordance with their submitted Operating Schedule and measures implemented to reduce those risks.

- (ii) **Provide** adequate facilities for people or performers with disabilities and to ensure their safety.
  - (iii) **Ensure** that the number of people, staff and performers, present in the Premises or event can be safely evacuated in the case of emergency and that adequate access arrangements exist to permit the attendance of emergency vehicles, if required.
  - (iv) **Ensure** adequate staff training has been undertaken to deal with emergencies. To indicate the frequency that such training will be updated and the method of maintaining staff training records to demonstrate that regular training has taken place.
  - (v) **Consultation** with the Council's Officer responsible for the enforcement of Health and Safety legislation in respect of the application and the submitted Operating Schedule. It is the Policy of the Licensing Authority to not use its licensing powers to secure compliance with fire safety requirements, which arise from other legislation. However, in circumstances where fire safety inadequacies indicate that the Premises pose a risk to the health and safety of those who enter them and where specific fire safety enforcement does not provide a sufficient or sufficiently rapid remedy; the Licensing Authority will take appropriate steps to ensure that the risk is removed.
  - (vi) **Maintain** controlled entry to the Premises or event and establish the maximum number of persons who are occupying the Premises or event at any time (see Appendix 3 for further information).
  - (vii) **Determine** the views of the Maritime and Coastguard Agency, as the lead Authority with regard to all the Licensing Objectives, in the case of an application for a Premises Licence in respect of a passenger vessel.
- b) In preparing an Operating Schedule for large scale events, which would require a Premises Licence, the Applicant is expected to consider if appropriate the following guidance and publications:
- (i) Technical Standards for Places of Entertainment 2015 (ABTT, Chartered Institute of Environmental Health ,District Surveyors Association, Institute of Licensing) ISBN 978 1 904031 83 3
  - (ii) The Event Safety Guide (The Purple Guide) [www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk)

- (iii) Risk Assessment – A Brief guide to controlling risks in the workplace HSE INDG163
- (iv) The Guide to Safety at Sports Grounds, 5<sup>th</sup> edition (The Stationery Office, 2008) ISBN 13: 9780117020740
- (v) Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, Published: 2004 Revised 2009 ISBN 978-0-9544892-5-0

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

### 3.3 THE PREVENTION OF PUBLIC NUISANCE

- a) The adequacy of measures proposed to deal with the **potential for nuisance** and in particular the steps taken by, or proposals of, the Applicant to:
  - (i) **Prevent** noise and vibration escaping from the Premises or open air sites, including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
  - (ii) **Prevent** noxious fumes from causing a nuisance to occupants of nearby residential and commercial Premises or land.
  - (iii) **Prevent** disturbance from light arising from security devices, floodlighting, advertising lighting or any special effect lighting.
  - (iv) **Prevent** disturbance by patrons arriving at or leaving the Premises, or in the vicinity of the Premises, especially when smoking.
  - (v) **Prevent** disturbance by patrons using external smoking or beer garden areas from causing a nuisance to nearby neighbours.
  - (vi) **Prevent** queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises or otherwise manage the queue to prevent disturbance or obstruction.
  - (vii) **Consider** the cumulative effect from multiple one off events giving rise to nuisance.
  - (viii) **Ensure** that staff leave the Premises quietly.

- (ix) **Determine** whether taxis and private hire vehicles serving the Premises are likely to disturb local residents and people staying in holiday accommodation.
- (x) **Consider** whether routes to or from the Premises on foot or by car, or for service or delivery vehicles, pass residential Premises and holiday accommodation and if so, what effect does this have on such properties.
- (xi) **Improve** the management of the Premises following any previous or current enforcement action taken.
- (xii) **Determine** whether the Premises would result in increased refuse storage or disposal problems, or whether additional litter from or in the vicinity of the Premises could cumulatively cause public nuisance.
- (xiii) **Implement** where appropriate the outcomes of consultations held between the Applicant and Torbay Council's Licensing & Public Protection Team in respect of the application and submitted Operating Schedule.

### 3.4 THE PROTECTION OF CHILDREN FROM HARM

- a) The adequacy of measures proposed to protect children from harm and in particular the steps taken by, or proposals of the Applicant to protect children:
  - (i) **Where** there have been convictions or Fixed Penalty Notices against staff employed at the Premises for serving alcohol to minors, or at Premises with a reputation for under age drinking.
  - (ii) **Where** the supply of alcohol for consumption on the Premises is the exclusive or primary purpose of the services provided at the Premises.
  - (iii) **Where** there is a known association with drug taking or dealing.
  - (iv) **Where** there is a strong element of gambling on the Premises (e.g. jackpot machines).
  - (v) **Where** entertainment or services of an adult or sexual nature are provided.

- (vi) **Where**, in the case of Premises giving film exhibitions, the arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself.
  - (vii) **Where** children are employed without a work permit issued by Torbay Council.
- b) The steps the applicant has taken or proposes to:
- (i) **Clearly** state their intentions to manage the premises so as to protect children from harm.
  - (ii) **Limit** the hours when children may be present.
  - (iii) **Impose** age limitations, for those under 18 years, on attendance.
  - (iv) **Impose** age limitations, for those under 18 years, on employment.
  - (v) **Limit** or exclude children when “Special Risk Entertainments” are taking place.
  - (vi) **Limit** access by children to only parts of the Premises.
  - (vii) **Require** the presence of an accompanying adult.
  - (viii) **Fully exclude** persons under 18 years from the Premises when any or all licensable activities are taking place.
  - (ix) **Prevent the service of** alcohol to children under eighteen years, except in the limited circumstances allowed for by the law and when satisfied that proof of age has been adequately demonstrated.
- c) The Licensing Authority recommends that the only way to verify a young person’s proof of age is with reference to their:
- (i) Passport
  - (ii) Driving licence
  - (iii) Provisional driving licence
  - (iv) Proof of Age Standards Scheme (PASS) card
  - (v) Official Military identity card
- d) The Licensing Authority recommends that Premises that sell or supply alcohol adopt the Challenge 25 scheme.

- e) The Licensing Authority recommends that premises that sell or supply alcohol should ensure that staff are suitably trained in all aspects of age-related sales and that training is reviewed on a regular basis. The Licensing Authority also recommends that records of all staff training are kept for a period of 12 months and made available to a Responsible Authority on reasonable request and that the premises has a written Age Verification Policy, which is also made available to a Responsible Authority on reasonable request. All members of staff must read and sign to confirm their understanding of the Policy, in order to support compliance with the Mandatory Condition (see Appendix 3 for further information).
- f) The Licensing Authority supports the installation of ID Scanners in premises open after midnight that may attract underage drinkers.
- g) Clearly stated measures in the case of an emergency for controlling access and egress and ensuring the well-being of children where regulated entertainment is specially presented for them. The Licensing Authority will normally require as a minimum the following arrangements:-
  - (i) An adult member of staff to be stationed in the vicinity of each of the exits from any level of the Premises, subject to there being a minimum of one member of staff per 50 children or part thereof (subject to (iv) below).
  - (ii) No child to be permitted in the front row of any balcony unless accompanied by an adult.
  - (iii) No standing to be permitted in any part of the auditorium during the performance.
  - (iv) At least one adult member of staff of each gender, when groups of mixed gender are present.
- h) Clearly stated measures where regulated entertainment is specially presented for under 18's in an existing Licensed Premises, Torbay Council will normally require as a minimum, the conditions found in appendix three (see Appendix 3 for further information).
- i) Where regulated entertainment includes child performers, the arrangements the Applicant proposes to ensure that the person responsible for the production has complied with Torbay Council's Children's Services requirements, as set out in their guidance 'Children in Entertainment'.

- j) Where a regulated entertainment is held specifically targeting children, the steps the Applicant proposes to demonstrate that the organisers of the event have ensured that their employees or other persons who will be responsible for supervising children have been submitted to the advanced disclosure mechanism operated by the Disclosure and Barring Service.

**SECTION 4 – The Licensing Authority’s rationale for issuing Premises Licenses is to:**

- 4.1 **Ensure**, whenever possible, that where progression of an application depends on both planning and licensing components, any formal consideration of the planning matters take place prior to determination of the licensing aspects.
- 4.2 **Ensure** that conditions are consistent with any Operating Schedule accompanying the application. Terms or conditions attached to Premises Licences will focus on matters that are within the control of individual licensees and others granted relevant permissions and will not duplicate requirements normally enforced by other regulatory regimes.
- 4.3 **Impose**, when appropriate, stricter conditions, limited hours and in some circumstances refuse types of regulated entertainment at Premises in close proximity to residential properties.
- 4.4 **Refuse** or limit types of regulated entertainment or impose early closing times where Applicants have not sufficiently demonstrated how they will protect residential properties in close proximity to their Premises, from public nuisance. (See Appendix 3 for further advice and information)
- 4.5 **Impose**, when necessary, conditions limiting the access of children to Licensed Premises solely for the prevention of harm to children.
- 4.6 **Impose** mandatory conditions, if the Premises Licence is to authorise the supply of alcohol. The relevant mandatory conditions can be found in appendix 4.
- 4.8 **Impose** as a mandatory condition where a Premises Licence is to authorise the exhibition of films:
- a) **That** the admission of children to the exhibition of any film to be restricted in accordance with the age restrictions set by the British Board of Film Classification
  - b) **Except** in a case where the Licensing Authority has determined a classification of its own in relation to a particular film, in which case that classification will be adopted as a mandatory condition.
- 4.9 **Impose** conditions that will reasonably reflect the work plan of the Community Safety Partnership, Safer Communities Torbay, where these are necessary to promote the licensing objectives.

- 4.10 Impose**, where necessary, a requirement that individuals shall be present at the Premises to carry out security activity for the purpose of promoting the reduction in crime and disorder (i.e. door supervisors) or other stewarding or supervisory functions and that each individual so required to carry out a security activity shall be licensed by the Security Industry Authority. The Licensing Authority's Policy is that two door stewards must be employed for up to the first 100 people likely to be present in the premises, and thereafter one steward must be employed for each additional 100 people. This can, however, be altered subject to the Applicant demonstrating through a suitable and sufficient risk assessment, to the satisfaction of the Responsible Authorities, that a different ratio is appropriate. This risk assessment should take into consideration the duties required by the stewards, the layout of the premises and any key locations/flash points/pinch points within the premises that will require additional stewards.
- 4.11 **Seek** to fulfil the Licensing Objectives by ensuring that only conditions relevant to those Objectives are attached to Licences and certificates and are tailored to the individual style and characteristics of the Premises and events concerned.
- 4.12 **Seek** to promptly set before the Licensing Committee or Licensing Sub-Committee those applications that are fully made in accordance with this Policy, the Act and any other relevant regulations or guidance and to deal with licensing issues speedily, efficiently and in a cost effective manner by exercising the power of delegation to Officers for non-contentious issues.
- 4.13 The Council's Delegation Scheme, which will only normally be amended by Council during any review of this Statement of Principles, is set out in Appendix 2.

## **SECTION 5 - The role and influence of Representations:**

### **The Licensing Authority:**

- 5.1 Recognises the right of a person or a business to make Representations on an application and will consider such Representations unless it deems them to be frivolous or vexatious, or, as the Act permits in the case of an application for Review of a licence or certificate, if such representation is deemed frivolous, vexatious or repetitious in nature.
- 5.2 Will not accept a Review application arising from complaint by an interested party that is based on grounds similar to those raised within a period of twelve months, save in compelling and exceptional circumstances.
- 5.3 Expects those objecting to applications to help to provide information/evidence to support the assertion that the addition of the Premises' licensable activities would be likely to produce the claimed impact on the neighbourhood when considered against the four Licensing Objectives.
- 5.4 Recognises that Elected Councillors are now defined as Interested Parties and can make Representations in their own right, and not just on behalf of others, providing they are Members of the relevant Licensing Authority to which the application has been made.

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

- 6.1 **The Council** has a Licensing Committee comprising of 15 Members of the Council in order to discharge the functions of the Licensing Authority and a Licensing Sub-Committee comprising of any three Members of the Licensing Committee to discharge any function it directs that is exercisable by the Licensing Committee.
- 6.2 **A Chairperson** of the Licensing Committee will be elected at the first annual meeting of the Licensing Committee.
- 6.3 **The Council** will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with the Council's constitution. No Member of the Council shall sit upon the Licensing Committee or Sub-Committee unless they have received appropriate training.
- 6.4 **The Licensing Committee** recognises the Local Safeguarding Children Board or specified successor organisation as the competent body for the purposes of this Policy with regard to the protection of children from harm.
- 6.5 Adhere to the principles of The Regulators' Compliance Code (April 2014), which includes:
- a) having clear standards
  - b) Carrying out their activities in a way that supports those they regulate to comply and grow
  - c) Provide simple and straightforward ways to engage with those they regulate
  - d) Regulating based on risk
  - e) Acting in a proportionate and consistent manner.
  - f) Share information securely with other regulators to better target resources
  - g) Ensure clear information, guidance and advice is available to help those they regulate, comply.
  - h) Demonstrating a clear complaints procedure for all licensing issues, recognising that all individuals have an absolute right to make representations or seek a review.
- 6.6 Publicise the Terms of Reference set down for its Licensing Committee.
- 6.7 Recognise enforcement as formal and informal actions including advice, information, monitoring, liaison, training and promotion of good practice and includes:
- a) **Actions** instituted by the Licensing Committee

- b) **Actions** taken by an Officer of the Council with the appropriate delegated authority to take such actions
  - c) **Actions** by an authorised Officer of a partner organisation with a statutory responsibility for a licensable Premises or activity.
- 6.8 Work with the Police and other enforcement agencies to support its Protocols:  
'Licensing Act 2003 – Information Exchange' and  
'Preventing the illegal supply of alcohol to persons under the age of 18 years'
- 6.9 **Work** in partnership with relevant agencies to develop effective and documented Protocols and working arrangements which allow for a 'lighter touch' where risks are perceived low, whilst higher risks situations may be specifically targeted in proportion to the risks identified.
- 6.10 **Comply** with the Code of Practice: Age Restricted Products, published by BIS/BRDO 2014, insofar as it relates to the test purchasing of alcohol by Trading Standards Officers and other agencies.
- 6.11 **In so far** as it is possible, avoid duplication of requirements with other regulatory agencies.
- 6.12 **Recognise** the Act as only one of the mechanisms available to regulate the leisure, hospitality and retail economy and to assist in the maintenance of public order in Torbay. Other influences and controls include: -
- a) **Planning** controls and the recognition that crime and disorder prevention should be designed into new developments.
  - b) **The designation** of public places where alcohol may not be consumed and the confiscation of alcohol may be enforced.
  - c) **Police powers** to close down Premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise and the powers of Environmental Health Officers to close noisy Premises.
  - d) **Prosecution** of personal licence holders who sell alcohol to people who are drunk.

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

## Contact Details

### **Licensing Authority**

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

### **Responsible Authorities**

Devon and Cornwall Police  
Licensing East  
Force Headquarters  
Exeter  
EX2 7HQ  
Tel: 01392 452225  
Fax: 01392 452447803 841287  
E-mail: [licensingeast@devonandcornwall.pnn.police.uk](mailto:licensingeast@devonandcornwall.pnn.police.uk)

Devon & Somerset Fire and Rescue Service  
Divisional Headquarters  
Newton Road  
Torquay  
TQ2 7AD  
Tel: 01803 653700  
E-mail: [southfiresafety@dsfire.gov.uk](mailto:southfiresafety@dsfire.gov.uk)

Head of Service  
Safeguarding & Reviewing Service  
C/O Town Hall  
Castle Circus  
Torquay  
TQ1 3DR  
Tel: 01803 208559  
Email: [cpunit@torbay.gov.uk](mailto:cpunit@torbay.gov.uk)

Interim Director of Public Health  
Town Hall  
Castle Circus  
Torquay

TQ1 3DR  
Tel: 01803 207350  
Email: [Publichealth@torbay.gov.uk](mailto:Publichealth@torbay.gov.uk)

Maritime and Coastguard Marine Office  
New Fish Quay Market  
Plymouth  
PL4 0LH  
Tel: 01752 266211  
E-mail: [Plymouth\\_mo@mcga.gov.uk](mailto:Plymouth_mo@mcga.gov.uk)

Licensing and Public Protection Team (Public Nuisance)  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR  
Tel: 01803 208025  
Email: [Licensing@torbay.gov.uk](mailto:Licensing@torbay.gov.uk)

Food & Safety Team  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR  
Tel: 01803 208025  
E-mail: [Food.safety@torbay.gov.uk](mailto:Food.safety@torbay.gov.uk)

Health and Safety Executive  
North Quay House  
North Quay  
Plymouth  
PL4 0RA  
Tel: 01752 276300  
E-mail: [formsadmin.plymouth@hse.gsi.gov.uk](mailto:formsadmin.plymouth@hse.gsi.gov.uk)

Planning  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR  
Tel: 01803 207801  
E-mail: [planning@torbay.gov.uk](mailto:planning@torbay.gov.uk)

Trading Standards  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR  
Tel: 01803 208025  
E-mail: [Trading.standards@torbay.gov.uk](mailto:Trading.standards@torbay.gov.uk)

## **Appendix 1 – Special Saturation Policy**

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

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

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

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

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

### ***Factors considered in adopting and continuing a Special Saturation Policy***

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

The Council considered analysis of crime data provided by Devon and Cornwall Police. This data was for calendar years of 2009, 2010, 2013 and 2014 with comparisons of the two earlier years to that of the two 2 later years. Data was mapped to analyse offences falling within the CIA. This analysis found that while overall crime had fallen by 6% in the CIA, the volume of violent crime in the area had

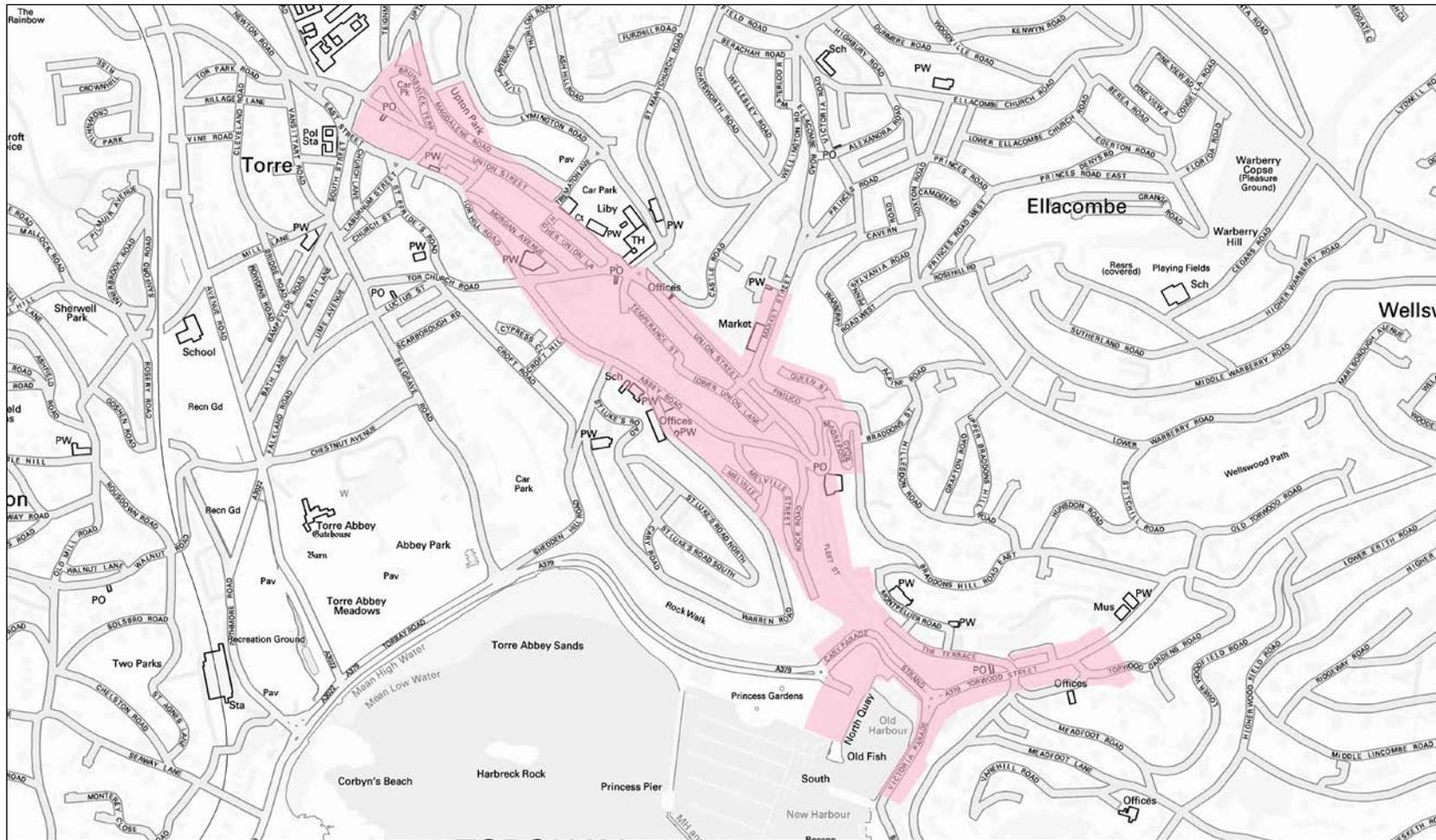
increased by more than 50%. Violent crime accounting for 29% of all crime in the CIA in 2013 and 2014. The CIA also accounted for a similar proportion of Torbay's overall crime as it had done in 2009 and 2010.

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

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

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

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



## **Appendix 1**

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## **Appendix 2 – Scheme of Delegation**

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

<b>Matter to be dealt with</b>	<b>* Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If an objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/ club premises certificate.		If a representation made	If no representation made
Application for provisional statement.		If a representation made	If no representation made
Application to vary premises licence/ club premises certificate.		If a representation made	If no representation made
Application for minor variation of premises licence/ club premises certificate.			All cases
Application to vary designated premises supervisor.		If a Police objection	All other cases
Request to be removed as designated premises supervisor.			All cases
Determination of application to disapply requirement for DPS at community premises		If a Police objection	All other cases
Application for transfer of premise licence.		If a Police objection	All other cases
Applications for interim authorities.		If a Police objection	All other cases
Application to review premises licence/club premises certificate.		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases
Decision whether to		All cases	

object when Local Authority is a consultee and not the relevant authority considering the application.			
Determination of a Police or Environmental Health objection to a temporary event notice.		All cases	
Determination of a Police or Environmental Health objection to a late temporary event notice.			All cases

\* **Full committee may deal with all Sub-Committee matters.**

## **Appendix 3 – Supplementary Information on Licensing Objectives**

### **Prevention of Crime and Disorder**

#### **Risk assessment for the provision of SIA door staff**

The number and times of required staff would be dependent on the location and style of Premises/event. Some areas may warrant the employment of SIA registered door staff for longer periods of the evening than other areas. This may be particularly true of night time economy areas, which includes the Cumulative Impact Area. The number of door supervisors to be employed would need to be determined as a result of a risk assessment carried out by the Premises Licence Holder and/or the Designated Premises Supervisor or required by the Licensing Authority. However it is recommended that two SIA stewards are employed for up to the first 100 customers, and thereafter one additional steward is employed for each additional 100 customers. Consideration also needs to be given to the ratio of male and female door supervisors which are appropriate for particular Premises/events.

#### **Register of SIA door staff**

Impose, as appropriate, a requirement for keeping of a daily Premises register of employed SIA registered door stewards and this register to be kept for a minimum of 12 months, and be available for inspection by any authorised officer of the Licensing Authority or Police body. The register shall include full names of the SIA door supervisors working, with their SIA badge numbers, and the date and the times that they commenced and finished their work. This register shall be signed at the end of each shift by the duty manager.

#### **Provision of Incident Log**

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

## **Reducing the Strength Campaign**

Due to crime, disorder and anti-social behaviour issues with known street drinkers within Torbay, the police are introducing a 'Reducing the Strength Campaign' to limit the availability of high strength lagers, beers and ciders in areas where a problem with street drinkers has been identified, but particularly within the CIA. A number of licensed premises with Torquay Town Centre, who are authorised for the sale of alcohol for consumption off the premises, now have conditions prohibiting them from selling any beer, cider or lager with an abv of 6% or more and prohibiting the sale of alcohol in single units. All applicants applying for the grant of a premises licence authorising the sale of alcohol for consumption off the premises, should consider including the above requirements within their application, particularly in the premises are situated within the CIA, and should consult with the Police Licensing Officer for further advice.

## **Public Safety**

### **Occupancy of Licensed Premises**

Require the submission of an Operating Schedule that is specific to the individual application; and where appropriate specifies the maximum intended occupancy including staff, performers and members of the public and is sufficiently comprehensive to enable the Licensing Authority and other Responsible Authorities to consider the application fully within the terms of this Policy, where appropriate. This should be in the form of a fire risk assessment, including safe capacity limits in compliance with the **Regulatory Reform (Fire Safety) Order 2005**, and in addition to the information above, should include how these numbers are controlled. The Licensing Authority will, when relevant representations are received from the Fire Authority, consider the implications relating to fire safety for each individual application for, or variation to, the Premises Licence.

## **Prevention of Public Nuisance**

### **General consideration**

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

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

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

The Licensing Authority will presume against the grant of new Premises Licences or Licence Variations and Club Premises Certificates where there are extensions in operational hours, or the addition or extension of activities (regulated entertainment) that may cause public nuisance, where the Applicant has not properly considered the issue of nuisance and where appropriate sought advice from those with expertise in this field, in order to alleviate any concerns arising.

There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.

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

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

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

- Type of licensable activity. For example live music is likely to generate significantly more noise than most other activities
- How the noise from the activity can be controlled to prevent noise breakout. Some premises simply do not have the structure to contain noise, and it is unlikely that these types of premises can have these noisier activities.
- Can the noise breakout be controlled by double glazing, noise limiters, large lobby areas, or any other structural change that attenuates the noise?
- How customers behave when they leave the premises, for a smoke, to make phone calls, to catch a taxi or to walk home

- Where are the smoking areas situated?
- Background noise levels. The background levels of noise in the night time economy areas will generally be higher than in residential areas, and those levels will vary depending on whether premises are on busy roads or in quiet residential streets.
- Patron's use of exterior beer gardens or smoking areas, including the street, and it's potential impact of noise nuisance on nearby residents and businesses.
- Where licensed premises exterior areas are located, supervision of those areas, collection of drinking vessels and cutlery and closing times.

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

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

Many premises already have later operating hours and later activities. This can and does cause significant public nuisance to neighbours and create a significant workload for the Responsible Authority.

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

In cases where a premises has benefitted from the deregulation of live and recorded music and the operator creates a nuisance to its neighbours, Torbay Council will seek a review of the premises licence to remove the exemption under the Live Music Act 2012.

### **Protection of Children from Harm**

#### **Staff Training**

The Licensing Authority requires as per the mandatory conditions, that an age verification policy is adopted. Premises that sell or supply alcohol will ensure that staff are suitably trained in all aspects of age-related sales and that training is reviewed on a regular basis. Good practice would be considered as the following:

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

### **Under 18 events in licensed premises**

Good practice would include the following:

- These events should finish no later than 23.00hrs (11.00pm) after which there will be a 30 minute period before the premises re-opens to over 18's
- The Police shall be notified in writing or email at least (minimum) 14 days prior to the proposed event.
- At least 4 SIA door supervisors must be employed throughout the event, which shall include at least 1 female supervisor. All supervisors will have undergone a Criminal Records Bureau check.
- All alcohol will be locked away and/or obscured from view.
- All gaming machines with prizes will be unplugged and locked
- All promotional material relating to alcohol shall be removed.
- Any person refusing to be searched will be refused entry.
- Metal detectors will be used at random on entry.
- The event will be promoted to ages of 14 years and above.
- International student events shall be restricted to international students only.
- Throughout under 18 events, the Designated Premises Supervisor or Personal Licence Holder must be present.

## **Appendix 4 – Mandatory Conditions**

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

### **All supplies of alcohol**

1. No supply of alcohol may be made under the premises licence-
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **Exhibition of films**

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where
  - (a) The film classification body is not specified in the licence, or
  - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c39) (authority to determine suitability of video works for classification)

### **Door supervision**

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

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

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

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

(b) in respect of premises in relation to:

- (i) Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising films or under a gaming licence, or
- (ii) Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section:

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

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

### **Age verification policy**

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

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

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

- (a) a holographic mark, or
- (b) an ultraviolet feature.

### **Permitted price**

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

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

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
- (b) "permitted price" is the price found by applying the formula

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

where:

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

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

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

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

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

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

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

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

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

### **Irresponsible drinks promotions**

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

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

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

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

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

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

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

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

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

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

### **Alcoholic drink measures**

1. The responsible person must ensure that;

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

(i) beer or cider: ½ pint;

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

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

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

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