



Wednesday, 14 November 2018

## **LICENSING COMMITTEE**

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

**Thursday, 22 November 2018**

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

### **Members of the Committee**

Councillor Thomas (J) (Chairman)

Councillor Brooks	Councillor Stocks
Councillor Darling (M)	Councillor Stubley
Councillor Darling (S)	Councillor Sykes
Councillor Excell	Councillor Thomas (D)
Councillor Lewis (B)	Councillor Tolchard
Councillor Mills	Conservative
Councillor Pentney	Councillor Manning

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**A prosperous and healthy Torbay**

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

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# LICENSING COMMITTEE AGENDA

1. **Apologies**  
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 6)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 1 November 2018.
3. **Declarations of interest**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**  
To consider any other items that the Chairman decides are urgent
5. **Gambling Act 2005 'Statement of Principles 2019' (Gambling Policy)** (To Follow)  
To consider the submitted report on the above Policy Framework document.
6. **Delegated Decisions Report - Licensing Act 2003** (Pages 7 - 10)  
To inform Members of the decisions taken in relation to Licensing Act 2003 applications by the Assistant Director Community Services under delegated powers.

7. **Delegated Powers Report - Gambling Act 2005**  
To inform Members of the decisions taken in relation to Gambling Act 2005 applications in Torbay by the Assistant Director Community Services under delegated powers.

(Pages 11 - 14)



## Minutes of the Licensing Committee

1 November 2018

**-: Present :-**

Councillor Thomas (J) (Chairman)

Councillors Brooks, Darling (M), Darling (S), Excell, Manning, Pentney, Stocks, Stubley and Thomas (D)

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### **54. Apologies**

Apologies for absence were received from Councillors Mills and Tolchard.

It was reported that, in accordance with the wishes of the Liberal Democrat Group, Councillor Darling (S) had filled the Liberal Democrat Group vacancy.

### **55. Minutes**

The Minutes of the meeting of the Licensing Committee held on 19 July 2018 were confirmed as a correct record and signed by the Chairman.

### **56. Hackney Carriage and Private Hire Licensing Policy 2018**

Members considered a report that sought approval for the Hackney Carriage and Private Hire Licensing Policy. The Principal Licensing Officer informed Members that on 15 March 2018 the Licensing Committee agreed to consult upon the draft Hackney Carriage and Private Hire Licensing Policy, the consultation concluded on 31 August 2018. In total 213 consultation questionnaires were returned, in addition a separate representation was received from the Torbay Taxi and Private Hire Association (TPHA), a further 23 copies of this representation was submitted in support from individuals who are not part of the TPHA and another 3 individual letters were received from other trade members as well as one additional letter from the Guide Dogs for the Blind Association.

At the Committee Mr Boyle, Mr Collins and Mr Green submitted oral representations to Members. Members proceeded to debate each recommendation as set out in Appendix 2 to the submitted report and resolved:

That the Hackney Carriage and Private Hire Licensing Policy as set out in appendix 1 to the submitted report be approved subject to the following:

- i) that paragraph 2.6 should remain unaltered;
- ii) that paragraphs 14.12 to 14.14 should remain unaltered;

- iii) that paragraph 14.29 should be amended to read:

Failure to present the vehicle for inspection by the due inspection date, will result in the vehicle licence being immediately suspended until such time as the inspection has been undertaken, a satisfactory pass certificate presented to the Licensing Authority and written confirmation that the suspension has been lifted is received from the Licensing Authority.

- iv) That:

- a) paragraph 5.15 be amended to read:

*5.15 Exemption from carrying guide, hearing and certain other assistance dogs which accompany disabled persons, can only be sought on strict medical grounds. Therefore, applicants will need to clearly demonstrate the grounds for applying this exemption by providing medical evidence to the Licensing Authority, such as a blood test, a skin prick test or clinical history and a signed letter from their registered GP and/or relevant medical specialist. All costs in obtaining this exemption shall be borne by the licensed driver.*

- b) all new drivers undertake disability and dementia awareness training prior to being licenced.
- v) that the agreed consultation draft policy to require a driver to appear before Licensing Committee should they receive more than nine penalty points be retained;
- vi) that the timeframes relating to Child Sex Exploitation training remain at 6 months as outlined in the draft policy;
- vii) that DVLA licence checks on all drivers are to be undertaken every six months;
- viii) that the new Code of Conduct at Appendix B to the draft Policy be included as consulted;
- ix) that the maximum age limit of a licensed vehicle be increased to 10 years instead of 8;
- x) that the maximum mileage for all vehicles when first presented for licensing be reduced to 50,000 miles;
- xi) that compliance testing be introduced as outlined in the draft policy, effective from 1 May 2019, following a procurement process and appointment of suitable test provider(s);
- xii) that permanent vinyl door stickers as consulted in the draft policy, **not** be implemented;

- xiii) that exemptions relating to door signs and plate exemptions **not** be implemented;
- xiv) that conditions relating to Wheel Chair Accessible Vehicles be included, as published in the draft policy;
- xv) that the policy be amended to remove the requirement for any Hackney Carriage or Private Hire Vehicle to be wrapped in contrasting colours, that Hackney Carriages be required to be in manufactures black only and that Private Hire Vehicles may be of any colour other than black. This condition comes into force immediately in all cases for newly licensed vehicles and will apply to existing licensed vehicles at point of replacement of the vehicle.
- xvi) that all vehicles be a minimum standard of 100 brake horse power (BHP);
- xvii) that the CCTV information be included, as published in the draft policy.

#### **57. Result of an Unmet Demand Study of Taxis in Torbay**

Members considered a report that detailed the outcome of an Unmet Demand Study commissioned by Torbay Council in response to guidance issued by the Department from Transport. The guidance states that a quantity control study of unmet taxi demand should be undertaken approximately every three years.

Members received a presentation from Ian Millership of CTS Traffic and Transportation Services Ltd who advised that the study commenced in April 2018, the study included 300 hours of rank observations, 212 on street interviews, a questionnaire sent to all Hackney Carriage and Private Hire drivers and vehicle licence holders and separate questionnaires sent to local businesses and stakeholders.

Resolved:

- i) that the current quantitative limit of Hackney Carriage licences of 162 full time licences with 7 additional summer (seasonal) only licences be maintained;
- ii) that a further report be presented to the Licensing Committee in 6 to 12 months following full consideration of the impacts of the study relating to future unmet demand and pollutant vehicles, in order to present proposals relating to increasing or deregulating the quantitative limit in the future; and
- iii) that the current vacant summer licence should remain unallocated pending the outcome of the report requested in ii) above.

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Chairman/woman



Briefing Report  
No:

Public Agenda Item: **Yes**

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

Wards  
Affected: **All**

To: **Licensing Committee** On: **22<sup>nd</sup> November 2018**

Contact Officer: **Gary O'Shea**  
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## **1. What we are trying to achieve**

- 1.1 To inform Members of the decisions taken in relation to Licensing Act 2003 applications by the Assistant Director Community Services under delegated powers.

## **2. Recommendation(s) for decision**

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

## **3. Key points and reasons for recommendations**

- 3.1 Torbay Council's "Statement of Licensing Policy" (adopted January 2016) details the scheme of delegation under the Licensing Act 2003. This Policy also requires that the Licensing Committee receive regular reports (section 1.19) on delegated decisions, so that it can maintain a general overview of the current licensing situation.

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

**Steve Cox**  
**Environmental Health Manager (Commercial)**

## Appendix A – Supporting information to Report

### A1. Introduction and history

A1.1 The Licensing Act 2003 (The Act) came into force on the 24<sup>th</sup> November 2005.

A1.2 As of 30<sup>th</sup> September 2018 Torbay Council had 793 Premises Licences/Club Premises Certificates; this number is net of licences issued against those that have lapsed or been surrendered during since the Act came into force.

Up to 30<sup>th</sup> September 2018 the Licensing Committee has dealt with a total of 591 premises hearings.

Additionally up to 30<sup>th</sup> September 2018, 3325 Personal Licences have been issued, of which 122 were between 1<sup>st</sup> October 2017 and 30<sup>th</sup> September 2018.

A1.2 From 1<sup>st</sup> October 2017 to 30<sup>th</sup> September 2018 Torbay Council has dealt with the following applications under the Licensing Act 2003.

	<b>Total</b>
Premises/Club Premises Applications – New	27
Premises/Club Premises Applications – Variations	13
Premises/Club Premises Applications – Minor Variations	33
Personal Licences	122
Hearings (Licensing Committee/Sub-Committee)	10
Appeals (to Magistrates Court)	2
Temporary Event Notices	352
Reviews of Licences (Licensing Committee/Sub-Committee)	8
Transfers of Premises Licences/Club Premises Certificates	65
Transfers of Designated Premises Supervisors	149

A1.3 The number of Premises Licence applications, being received by the Licensing and Public Protection Team was 27 which represents a small increase in the normal average of around 20 per annum.

A1.4 The number of Personal Licences issued was 122, which remains comparable to the average numbers received. While the number of Temporary Events Notices (TENs), also remains constant at 352, this being approximately the average annual number of TENs received. There remains a seasonal variation where a larger number of TENs tend to be received in the summer months. The last year has been no exception, with 200 of the total number being received between April and September.



A1.5 There have been two appeals submitted against Licensing Sub-Committee decisions in the last year. There have been 29 appeals in total in the 13 years since the Licensing Act 2003 came into force, 12 of these have arisen from Review decisions.

A1.6 Of the 2 most recent appeals these were both withdrawn prior to the full hearing, the latter of which has resulted in the closure of a non-compliant premises and over £9000 in costs being awarded to the Council.

A1.6 Transfers of Licences and Designated Premises Supervisors variations showed a small increase on the average numbers. This is probably due in part to some work that has been conducted over the last year to ensure compliance when premises have changed hands.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

There are no risks associated with this report.

## **A3. Options**

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

## **A4. Summary of resource implications**

A4.1 There is a fairly static picture, so the income has remained stable. However, with no change in the statutory fee since implementation of the Licensing Act in 2005, the real terms value of income reduces year on year.

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

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

## **A6. Consultation and Customer Focus**

A6.1 There is public consultation on all new and variation applications for a 28 day period in the case of new premises licence applications and full variations and 10 working days consultation in respect of a minor variation.

## **A7. Are there any implications for other Business Units?**

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

## **Annexes**

### **Documents available in members' rooms**

None

### **Background Papers:**

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

None



Briefing Report  
No:

Public Agenda Item: **Yes**

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

Wards  
Affected: **All**

To: **Licensing Committee** On: **22 November 2018**

Contact Officer: **Gary O'Shea**  
☎ Telephone: **01803 207631**  
✉ Email: **Gary.oshea@torbay.gov.uk**

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## 1. **What we are trying to achieve**

- 1.1 To inform Members of the decisions taken in relation to Gambling Act 2005 applications in Torbay by the Assistant Director Community Services under delegated powers.

## 2. **Recommendation(s) for decision**

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

## 3. **Key points and reasons for recommendations**

- 3.1 Torbay Council's "Gambling Policy Statement" (adopted January 2016) details the scheme of delegation under the Gambling Act 2005. This Policy also requires that the Licensing Committee receive regular reports (Section 9.15) on delegated decisions so that it can maintain a general overview of the current gambling situation in Torbay.

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

**Steve Cox**  
**Environmental Health Manager (Commercial)**

## Appendix A – Supporting information to Report

### A1. Introduction and history

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

A1.2 From 30th April 2007, Torbay Council became responsible for the administration and issuing of Premises Licences and UFEC's. Below are the applications dealt with between 1<sup>st</sup> October 2017 and 30<sup>th</sup> September 2018.

	<b>Total</b>
Casino Premises Licences – New	0 (1)
Casino Premises Licences – Variation	0
Bingo Premises Licences – New	0 (8)
Bingo Premises Licences – Variation	1
Betting Premises Licences – New	0 (16)
Betting Premises Licences – Variation	0
Adult Gaming Centre Premises Licences – New	1 (17)
Adult Gaming Centre Premises Licences – Variation	1
Family Entertainment Centre Premises Licences – New	0 (2)
Family Entertainment Centre Premises Licences – Variation	0
Unlicensed Family Entertainment Centre Gaming Machine Permit – New	2 (19)
Temporary Use Notices	0
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Hearings (Licensing Committee/Sub-Committee)	0
Appeals (to Magistrates Court)	0

The numbers in brackets are the total number of each type of Premises Licences issued.

There have been 2 applications for UFEC's (arcades) which are permitted only Category D machines.

In addition there have been 1 each of a Bingo Premises Licence variation, 1 Adult Gaming Centre (AGC) Premises Licence variation and 1 new application for an AGC.

- A1.3 Gambling, whilst an important area of work for the Licensing Authority, is not traditionally a function that attracts large quantities of applications. The majority of the work of the Licensing Team with regard to the Gambling function is undertaken through compliance visits, which ensures that operators continue to operate in a responsible manner.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

This report is for information, therefore, there are no risks associated with this report.

## **A3. Options**

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

## **A4. Summary of resource implications**

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

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

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

## **A6. Consultation and Customer Focus**

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

- A6.2 Applications that attract representation during the consultation period, would be considered by a Licensing Sub-Committee, however, applications where no representations are received, must be granted under officer delegation.

## **A7. Are there any implications for other Business Units?**

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

**Annexes**

None

**Documents available in members' rooms**

None

**Background Papers:**

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

None