



Wednesday, 30 October 2013

LICENSING COMMITTEE

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

Thursday, 7 November 2013

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 Addis (Chairman)

Councillor Amil	Councillor Doggett
Councillor Barnby	Councillor Faulkner (A)
Councillor Bent	Councillor Pentney (Vice-Chair)
Councillor Brooksbank	Councillor Stocks
Councillor Butt	Councillor Ellery
Councillor Hytche	Councillor James
Councillor Tyerman	Councillor Cowell

Working for a healthy, prosperous and happy Bay

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

Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207026

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

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 1 - 2)
To confirm as a correct record the Minutes of the meeting of this Committee held on 6 June 2013.
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. **Street Collection Application** (Pages 3 - 14)
This report is in respect of a non charitable street collection application that departs from Torbay Council's Street Collection Policy should it be granted.
6. **Wheelchair Accessible Vehicles** (Pages 15 - 20)
This report is to advise and update Members of their aspiration to make 5% of the Hackney Carriage and Private Hire Fleet wheelchair accessible by 2018.
7. **Delegated Powers gambling** (Pages 21 - 23)
To inform Members of the decisions taken in relation to Gambling Act 2005 applications in Torbay by the Executive Head Community Safety under delegated powers.

8. Delegated Powers Licensing

(Pages 24 - 43)

Decisions taken in relation to Licensing Act 2003 applications under delegated powers and the Personal Licence consultation



Minutes of the Licensing Committee

6 June 2013

-: Present :-

Councillor Addis (Chairman)

Councillors Amil, Barnby, Brooksbank, Doggett, Faulkner (A), Hytche, Pentney and Stocks

19. Election of Chairman/woman

Councillor Addis was elected Chairman for the 2013/2014 Municipal Year.

20. Apologies

Apologies for absence were received from Councillors Butt, Cowell, Ellery and Bent.

21. Appointment of Vice-Chairman/woman

Councillor Pentney was elected Vice-Chairwoman for the 2013/2014 Municipal Year.

22. Minutes

The Minutes of the meeting of the Licensing Committee held on 31 January 2013 were confirmed as a correct record and signed by the Chairman.

23. Hackney Carriage Tariff Increase

The Committee considered a report as requested from the Torbay Licensed Taxi Association to increase the applicable fare tariff in respect of all Hackney Carriages in Torbay.

Resolved:

- i) that the appropriate Public Notices be placed to advertise the requested increase in the Hackney Carriage Fare Scale, as set out in the email from the Torbay Licensed Taxi Association set out in Appendix 1 to the submitted report;
- ii) that any responses to the Public Notice be considered by the Licensing Sub-Committee; and
- iii) in the event that no objections are received, the new tariff would take effect from the 15 July 2013.

24. Decisions taken in relation to Licensing Act 2003 applications under delegated powers

The Committee noted the report which set out the details of the decisions taken by the Executive Head, Community Safety, in relation to the Licensing Act 2003 applications, using delegated powers.

25. Decisions taken in relation to Gambling Act 2005 applications under delegated powers

Members noted the report which set out the details of the decisions taken in relation to the Gambling Act 2005, taken by the Executive Head, Community Safety, in relation to the Gambling Act 2005 applications, using their delegated powers.

26. Establishment of Licensing Sub-Committee

The Committee considered a report in relation to the establishment of a Licensing Sub-Committee which would be able to deal with all matters in connection with licensing application. It was noted that the Licensing Act 2003 provided for the establishment of one or more sub-committees (Section 9 (1)), consisting of 3 members of the Committee.

Resolved:

- (i) that a sub-committee of the Licensing Committee be established to comprise of three Members of the Licensing Committee;
- (ii) that the terms of reference of the sub-committee be to consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles) and the Hackney Carriage (Taxi) and Private Hire Policy; and
- (iii) that the Licensing Sub-Committee be exempt from the rules of Committee proportionality, as defined in the Local Government and Housing Act 1989 and supporting regulations; and
- (iv) that the Governance Support Manager (in consultation with the Chairman), be authorised to empanel Members of the Licensing Committee to serve on the Licensing Sub-Committee as and when required.

Chairman

Agenda Item 5



Report No: Public Agenda Item: **Yes**

Title: **Street Collection Application**

Wards Affected: **All**

To: **Licensing Committee** On: **7 November 2013**

Key Decision: **No**

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

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

1. What we are trying to achieve

1.1 This report is in respect of a non charitable street collection application that departs from Torbay Council's Street Collection Policy should it be granted.

2. Recommendation(s) for decision

2.1 There is no recommendation.

3. Key points and reasons for recommendations

3.1 By the provisions of the Borough of Torbay (Street Collection) Regulations 1976, made under the Section 238 of the Local Government Act 1972, Torbay Council is the Licensing Authority in respect of Street Collection within Torbay.

3.2 An application has been made by the Babbacombe Bay Business Improvement District (BID) to collect money for their Christmas 2013 and summer 2014 events. Although the Borough of Torbay (Street Collection) Regulations 1976 would legally allow an association to street collect, Torbay Council's Street Collection Policy as approved by Torbay Council on 20th May 2010 makes provision only for charities to collect in Torbay.

3.3 The granting of the application would depart from the agreed Policy and could set a precedent which would undermine the position of the current Policy.

For more detailed information on this proposal please refer to Appendix A.
Frances Hughes
Executive Head Community Safety

Appendix A – Supporting information to Report

A1. Introduction and history

- A1.1 By the provisions of the Borough of Torbay (Street Collection) Regulations 1976, made under the Section 238 of the Local Government Act 1972, Torbay Council is the Licensing Authority in respect of Street Collection within Torbay.
- A1.2 An application has been made by the Babbacombe Bay Business Improvement District to collect money for their Christmas 2013 and summer 2014 events. See Appendix 1. Although the Borough of Torbay (Street Collection) Regulations 1976 would legally allow an association to street collect, Torbay Council's Street Collection Policy makes provision only for charities to collect in Torbay. See Appendices 2 and 3.
- A 1.3 The granting of the application would depart from the agreed Policy and could set a precedent for future applications by the same BID, others BID's or other associations which may undermine the position of the current Policy.
- A1.4 There is no recommendation, as it would be for Licensing Committee Members to decide whether there are sufficient grounds to depart from the current Policy.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no significant risks, though consideration should be given to whether the granting of the application would undermine the said Policy and set a precedent for future decisions.

A3. Options

- A3.1 To agree or refuse the application.

A4. Summary of resource implications

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

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

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

A6. Consultation and Customer Focus

- A6.1 There has been no public consultation.

A7. Are there any implications for other Business Units?

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

Appendices

Appendix 1 Application by Babbacombe Bay BID for a Street Collection Licence

Appendix 2 Borough of Torbay (Street Collection) Regulations 1976

Appendix 3 Torbay Council's Street Collection Policy

Documents available in members' rooms

None

Background Papers:

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

None



Torbay
Application to licence a street collection
Police, Factories etc. (Miscellaneous Provisions) Act
1916

For help contact
<https://forms.torbay.gov.uk/ContactLicenseTrading>
 Telephone: 01803 208025

* required information

Section 1 of 10

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference	Not Currently In Use	This is the unique reference for this application generated by the system.
Your reference	Babbacombe Bay BID Xmas Events	You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

- Yes
 No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name	Arthur
* Family name	Christian
* E-mail	bbmtraders@hotmail.co.uk
Main telephone number	07989536450
Other telephone number	01803 316126

Include country code.

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

- * Is your business registered in the UK with Companies House?
 Yes
 No
- * Is your business registered outside the UK?
 Yes
 No

* Business name	Babbacombe Bay Business Improvement District Babbacombe Bay BID
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If your business is registered, use its registered name.

* VAT number	-	None
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Put "none" if you are not registered for VAT.

Continued from previous page...

* Legal status

* Your position in the business

Home country

The country where the headquarters of your business is located.

Business Address

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

* Building number or name

* Street

District

* City or town

County or administrative area

Postcode

* Country

Section 2 of 10

FURTHER DETAILS ABOUT THE APPLICANT

Please note: the applicant must be the organiser of the proposed collection

Former name(s)

If currently or previously known by any other name(s), you must record them here.

Home Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes

No

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

Further Details

* Date of birth / /
dd mm yyyy

* Place of birth

Section 3 of 10

Continued from previous page...

ORGANISATION WHICH IS RESPONSIBLE FOR THE COLLECTION

* Provide a brief description of the organisation and its objectives

Business Improvement District established in 2012 for the benefit of its Business Members in Babbacombe, St Marychurch and Plainmoor. A not for profit organisation delivering a business plan to promote the area.

* Are the proceeds of the collection to benefit this organisation?

Yes No

* Is this organisation a registered charity?

Yes No

* What are the proceeds of the collection to be used for?

To help meet the cost of delivery of the next Summer and Christmas events in the area

Section 4 of 10

CHARITY, FUND OR ORGANISATION TO BENEFIT FROM THE COLLECTION

* Is another organisation going to benefit from your collection?

Yes No

Section 5 of 10

TYPES OF COLLECTION

* What type(s) of collection will you be performing?

- A street collection
 A house-to-house collection
 Both street and house-to-house collections

Street Collection

Check for local guidance notes and conditions before completing this section. Some of the questions may not be relevant to local circumstances or your responses may have to provide very specific information.

Where

* In what parts of this authority's area do you intend to carry out the collection?

St Marychurch (Fore Street) and Babbacombe (Reddenhill Road)

When

* Preferred dates for the collection

14th and 17th December 2013

Alternative dates

* During what hours of the day will the collection be held?

10am to 8pm

Continued from previous page...

Collectors

* How many people do you plan to authorise as collectors?

* How will the collectors be identifiable? (provide details of badge, certificate of authority etc)

BID Badge and collectors label.

What

Check for local guidance notes which may clarify what is allowable in your area and whether additional permissions or licences are required.

* Do you plan to hold the collection in conjunction with a carnival, procession or other event?

Yes No

* Provide details

Christmas street parties

* Do you intend to offer anything for sale during the collection?

Yes No

Section 6 of 10

EXPENSES AND PAYMENT

* Will 100% of the proceeds of the collection be donated to a charity or used for charitable purposes?

Yes No

* What % of the proceeds will be donated to a charity or used for charitable purposes? %

Expenses

* Do you intend to pay expenses or admin costs out of the proceeds of the collection?

Yes No

Payments

N.B. Payment cannot be made to collectors, or others, unless details are provided in this form and approved

* Do you intend to pay collectors or any other person out of the proceeds of the collection?

Yes No

Statement Of Return

* Which of the following types of return will you submit, giving details of proceeds and deductions?

Street collection only

Continued from previous page...

Section 7 of 10

PREVIOUS APPLICATIONS

* Have you, or any person named in or associated with this application, previously applied for a similar licence or registration? (check all that apply)

- No Yes - application granted and revoked
 Yes - application granted Yes - application refused

Section 8 of 10

CONVICTIONS

* Have you, or any person named in or associated with this application, been convicted of any crime or offence?

- Yes No

Section 9 of 10

ADDITIONAL DETAILS

Provide any additional information which is required or relevant to your application (check for local guidance notes and conditions which may provide details of specific requirements in your area)

Specific collection buckets to be clearly labeled 'Street Party Collection' and issued to named individuals. Bucket to be collected in on the same evening and counted - 2 BID members present - on the following days.

Section 10 of 10

ATTACHMENTS

AUTHORITY POSTAL ADDRESS

Address

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

DECLARATION

I am aware that should a Licence be granted to me the collection must take place in strict compliance with the house-to-house collection regulations and/or the street collection regulations as appropriate. I am aware that it is also necessary for me to submit a certified form of statement within 28 days of the collection taking place.

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act, 1998. The information that you provide on this form will only be used in the processing of the application form, and will only be disclosed where necessary under any applicable legislation and certain circumstances should the application be

Continued from previous page...

successful such as publication of business details on a public register, it may also be shared for the purposes of enforcement

You have the right to access your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 207467. * Further information can be found on the Information Governance pages on Torbay Council's internet pages at www.torbay.gov.uk

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

Date (dd/mm/yyyy)

Once you're finished you need to do the following:

1. Save this form to your computer by clicking to file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/street-collection-licence/torbay/apply-1> to upload this file and continue with your application

Don't forget to make sure you have all your supporting documentation to hand.

**THE BOROUGH OF TORBAY
(STREET COLLECTION) REGULATIONS 1976**

1. In these Regulations, unless the context otherwise requires:-

"collection" means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word "collector" shall be construed accordingly;

"promoter" means a person who causes others to act as collectors;

"permit" means a permit for a collection;

"contributor" means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;

"collecting box" means a box or other receptacle for the reception of money from contributors.

2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within the Borough of Torbay unless a promoter shall have obtained a Permit from Torbay Borough Council.*

3. The application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection; provided that the Torbay Borough Council may reduce the period of one month if satisfied that there are special reasons for so doing.

4. No collection shall be made except upon the day and between the hours stated in the permit.

5. The Torbay Borough Council may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.

6. (1) No person may assist or take part in any collection without the written authority of the promoter.
(2) Any person authorised under paragraph (1) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the Torbay Borough Council or any Constable.

7. No collection shall be made in any part of the carriageway of any street which has a footway; provided that the Torbay Borough Council may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.

8. No collection shall be made in a manner likely to inconvenience or annoy any person.

9. No collector shall importune any person to the annoyance of such person.

10. While collecting, a collector shall remain stationary and shall not be nearer to another collector than 25 metres; Provided that the Torbay Borough Council may, if it thinks fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of 16 years to act as a collector.

12. (1) Every collector shall carry a collecting box.
(2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them from being opened without the seal being broken.
(3) All money received by a collector from contributors shall immediately be placed in a collection box.
(4) Every collector shall deliver, unopened, all collecting boxes in his possession to the promoter.

13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.

14. (1) Subject to paragraph 2 below, a collecting box shall be opened in the presence of a promoter and another responsible person.
(2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
(3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.

15. No payment shall be made out of the proceeds of the collection, wither directly or indirectly, to any collector or to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the Torbay Borough Council.

16. (1) Within one month after the date of any collection, the person to whom the permit was granted shall send to the Torbay Borough Council:-

- (a) A statement in the form set out in the Schedule to these Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant;
- (b) A list of collectors
- (c) A list of the amounts contained in each collecting box and shall, if required by the Torbay Borough Council, satisfy it as to the proper application of the proceeds of the collection

(2) The said person shall also, within the same period, at the expense of that person and after a qualified accountant shall have given his certificate under paragraph (1)(a) above, publish in such newspaper or newspapers as the Torbay Borough Council may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected and the amount of the expenses and payments incurred in connection with such collection.

(3) The Torbay Borough Council may, if it is satisfied there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.

(4) For the purposes of this Regulation a "qualified accountant" means a member of one or more of the following bodies:-

The Institute of Chartered Accountants in England and Wales

The Institute of Chartered Accountants in Scotland

The Association of Certified Accountants

The Institute Of Chartered Accountants in Ireland.

17. These Regulations shall not apply:-

- (a) In respect of a collection taken at a meeting in the open air, or
- (b) To the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.

18. Any person who acts in contravention of any of the foregoing Regulations shall be liable on summary conviction to a fine not exceeding £2 or, in the case of a second or subsequent offence, not exceeding £5.**

19. These Regulations may be cited as "The Borough of Torbay (Street Collection) Regulations 1976" and shall come into force one month after the date on which they are confirmed by the Secretary of State.

THE COMMON SEAL OF THE COUNCIL OF THE BOROUGH OF TORBAY was hereunto affixed the Twelfth day of April Nineteen Hundred and seventy Six

TORBAY BOROUGH COUNCIL

Pursuant to Section 238 of the Local Government Act 1972 I certify that (a) The foregoing regulations were made by the Torbay Borough Council (b) This is a true copy (c) The Regulations were confirmed on the 22nd July 1976 by the Secretary of State who fixed the date for the coming into operation as the 22nd August 1976

K. TANSLEY

PROPER OFFICER

*** Permission must be obtained first for certain areas in Torbay. Please refer to Application Form.**

**** The penalty is increased to £500 by the Criminal Justice Act 1991 for the first and subsequent offences.**

If you require an explanation or advice regarding this, or it in a different format or language, please contact the Licensing Team on 01803 208126 or at Licensing@torbay.gov.uk

G:/Data/Licence/Street Collection Standard Letters/SC010

STREET COLLECTIONS

A Street Collection Permit will be required where a person or group wishes to collect money for charitable purposes in any area of Torbay where the public has access and cannot be excluded from such area, including private land.

Permission will be given to collections of money in Torbay in the following circumstances:-

1. Where the collection is held for a local charity, this may take place on any day of the year. A local collection is where it can be shown on the application, and subsequent return, that the money collected will be spent or allocated for use entirely within Torbay. An exception can be made where the charity covers a larger area than Torbay. For example, many fundraising schemes operate in connection with South Devon Healthcare which extends through Torbay and down to Plymouth. A collection made by a local charity, or the local branch of a national charity, will not come within the terms of a local collection if the money raised is not, predominantly, assisting charitable funds and projects within Torbay.
2. Where the collection is being conducted by a national charity and the funds are not being allocated locally as described above, a collection may only be made on a Saturday between April and September. Applications can be made in advance of the intended year in question although particular dates will be allocated only in the December of the year which precedes the year applied for. This is to prevent larger and more administratively capable bodies applying many years in advance to the detriment of smaller bodies. In the event that the number of applications exceeds the number of available days, the successful applicants will be determined by simple ballot. Priority is given to those applicants wishing to collect during a specified National Week, followed by those specifying a preferred day and the remainder of the available days
3. Exceptions can be made to the arrangements in the following circumstances:-
 - (a) Where an element of entertainment is being provided, no permission will be required where the *only* medium for collection of money will be a static container bearing the words "FOR YOUR APPRECIATION" or something similar.
 - (b) Where a long distance event takes place, such as a "Round Britain Walk" permission may be given for a collection while this passes through Torbay.
 - (c) National collections where the specified day is significant, eg. Poppy Day.

Under the above exception arrangements, however, no collection may be made within 100 yards of any other collector acting under a Torbay Street Collection Permit.

4. Only one charity, body or fund may collect in each available area on each day
5. Each charity, body or fund will normally be allowed to collect on only one occasion per year.
6. Collections will normally be permitted to take place only between 9am and 6pm.

Agenda Item 6



Report No: Public Agenda Item: **Yes**

Title: **Wheelchair Accessible Vehicles**

Wards Affected: **All**

To: **Licensing Committee** On: **7 November 2013**

Key Decision: **No**

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

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

1. What we are trying to achieve

- 1.1 This report is to advise and update Members of their aspiration to make 5% of the Hackney Carriage and Private Hire Fleet wheelchair accessible by 2018.

2. Recommendation(s) for decision

- 2.1 That Members note the progress made to date and agree that a further report be submitted to them in 6 months time which evaluates whether the current increasing percentage trend of wheelchair accessible vehicles is maintained.

3. Key points and reasons for recommendations

- 3.1 By the provisions of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- 3.2 On the 31st January 2013 Licensing Committee agreed to amend the Hackney Carriage and Private Hire Licensing Policy to include an aspirational target of 5% of both fleets being wheelchair accessible. This has been achieved. See Appendix 1.
- 3.3 It is recommended that this is reviewed after the next renewal period in April 2014 to ascertain if the current incentive agreed by Licensing Committee on the 31st January 2013 is continuing to increase the percentage of wheelchair accessible vehicles in the fleet. This was to allow wheelchair accessible vehicles a life of ten years as a licensed vehicle compared to eight years for all other vehicles.

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

Frances Hughes
Executive Head Community Safety

Appendix A – Supporting information to Report

A1. Introduction and history

A1.1 By the provisions of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.

A1.2 On the 31st January 2013 Licensing Committee agreed to amend the Hackney Carriage and Private Hire Licensing Policy to include an aspirational target of 5% of both fleets being wheelchair accessible by 2018.

A 1.3 This has been achieved. As of the 30th September 2013 6.8% of the Hackney Carriage Fleet (11 out of 169) and 7.2% of the Private Hire Fleet (21 out of 293) were wheelchair accessible.

A1.4 It is recommended that this is reviewed after the next renewal period in April 2014 to ascertain if the current incentive agreed by Licensing Committee on the 31st January 2013 is continuing to increase the percentage of wheelchair accessible vehicles in the fleet. This was to allow wheelchair accessible vehicles a life of ten years as a licensed vehicle compared to eight years for all other vehicles.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no significant risks.

A3. Options

A3.1 To agree to the recommendation or to set a higher aspirational figure.

A4. Summary of resource implications

A4.1 There are no resource implications for the Council

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

A5.1 There are no environmental sustainability or crime and disorder issues. This is an equalities issue and positive progress is being made.

A6. Consultation and Customer Focus

A6.1 There was public and trade consultation on the new Policy in 2012 and as part of the Unmet Demand study in 2011.

A7. Are there any implications for other Business Units?

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

Appendices

Documents available in members' rooms

None

Background Papers:

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

None



Minutes of the Licensing Committee

31 January 2013

-: Present :-

Councillor Addis (Chairman)

Councillors Amil, Bent, Brooksbank, Butt, Doggett, Ellery, Hytche, Parrott, Pentney and Stocks

14. Apologies

Apologies for absence were received from Councillors Faulkner (A), Barnby and Cowell.

15. Minutes

The Minutes of the meeting of the Licensing Committee held on 27 September 2012 were confirmed as a correct record and signed by the Chairman.

16. Hackney Carriage and Private Hire Licensing Policy

Members considered a report on the Hackney Carriage and Private Hire Licensing Policy which had been the subject of a 12 week consultation period. Members were informed that a number of Representations had been received and following consideration by Officers, amendments to the Policy had been proposed and were set out in the submitted report.

At the meeting the Committee received oral Representations from Mr Cree, Mr Le Huray and Mr James.

Resolved:

That the Hackney Carriage and Private Hire Licensing Policy be approved, subject to the inclusion of the amendments set out in the submitted report with the exception of:

- i) paragraph A1.6, bullet point 5 – Adhesive door signs. The wording of the existing policy is to remain with minor changes being delegated to the Chairman of the Licensing Committee in consultation with the Council's Senior Lawyer for Litigation & Licensing;
- ii) paragraph A1.7, bullet point 2 being amended to '...new Driver Standard Assessments for new drivers and existing drivers who receive **over 6** points...';

- iii) paragraph A1.9 (paragraph 5.13 of the policy), being amended to 'The Licensing Authority aspires that all drivers are trained to BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire Standards **or equivalent qualification which are to the satisfaction of the Licensing Authority**'; and
- iv) paragraph A1.11 (paragraph 14.6 of the policy), being amended to 'The Licensing Authority aspires to achieve **5%** wheelchair accessible vehicles by 2018 with regard to both hackney carriage and private hire vehicles'.

17. Decisions taken in relation to Licensing Act 2003 applications under delegated powers

Members noted the report which set out the decisions made under delegated powers by the Executive Head of Community Safety in relation to Licensing Act 2003 applications.

18. Decisions taken in relation to Gambling Act 2005 applications under delegated powers

Members noted the report which sets out decisions made under delegated powers by the Executive Head of Community Safety in relation to Gambling Act 2005 applications.

Chairman

Agenda Item 7



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: **7 November 2013**

Key Decision: **No**

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

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

1. What we are trying to achieve

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

2. Recommendation(s) for decision

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

3. Key points and reasons for recommendations

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

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

Frances Hughes
Executive Head Community Safety

Appendix A – Supporting information to Report

A1. Introduction and history

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

A1.2 From 30th April 2007, Torbay Council became responsible for the administration and issuing of Premises Licences and UFEC's. Below are the applications dealt with between 1st April and 30th September 2013.

	Total
Casino Premises Licences – New	0 (1)
Casino Premises Licences – Variation	1
Bingo Premises Licences – New	0 (8)
Bingo Premises Licences – Variation	1
Betting Premises Licences – New	0 (20)
Betting Premises Licences – Variation	0
Adult Gaming Centre Premises Licences – New	0 (21)
Adult Gaming Centre Premises Licences – Variation	0
Family Entertainment Centre Premises Licences – New	0 (3)
Family Entertainment Centre Premises Licences – Variation	0
Unlicensed Family Entertainment Centre Gaming Machine Permit – New	0 (18)
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 two variation applications, one for a Bingo premises which has resulted in the surrender of an Adult Gaming Centre.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no risks associated with this report.

A3. Options

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

A4. Summary of resource implications

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

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

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

A6. Consultation and Customer Focus

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

A7. Are there any implications for other Business Units?

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

Annexes

None

Documents available in members' rooms

None

Background Papers:

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

None



Report No: Public Agenda Item: **Yes**

Title: **Decisions taken in relation to Licensing Act 2003 applications under delegated powers and the Personal Licence consultation**

Wards Affected: **All**

To: **Licensing Committee** On: **7 November 2013**

Key Decision: **No**

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

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

1. What we are trying to achieve

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

2. Recommendation(s) for decision

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

3. Key points and reasons for recommendations

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

**For more detailed information on this proposal please refer to Appendix A.
Frances Hughes
Executive Head Community Safety**

Appendix A – Supporting information to Report

A1. Introduction and history

A1.1 The Licensing Act 2003 came into force on the 24th November 2005. On the 30th September 2013 Torbay Council had 812 Premises Licences/Club Premises Certificates; this is an increase on 6 months earlier. Up until 30th September 2013 the Licensing Committee has dealt with 540 premises hearings, of which 10 were between 1st April and 30th September 2013. Additionally up to 30th September 2013, 2700 Personal Licences had been issued, of which 81 had been issued between 1st April and 30th September 2013.

A1.2 From 1st April and 30th September 2013, Torbay Council has dealt with the following applications under the Licensing Act 2003.

	Total
Premises/Club Premises Applications – New	16
Premises/Club Premises Applications – Variations	5
Premises/Club Premises Applications – Minor Variations	8
Personal Licences	81
Hearings (Licensing Committee/Sub-Committee)	10
Appeals (to Magistrates Court)	0
Temporary Event Notices	159
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Transfers of Premises Licences/Club Premises Certificates	34
Transfers of Designated Premises Supervisors	73

A1.3 The number of applications, being received by the Licensing and Public Protection Team was 29 compared to 31 in the previous 6 months. Though the figures are similar, there is a notably increase in new applications. The number of hearings was up from 9 to 10. Overall this is a slight increase in activity compared to the previous six months.

A1.4 The number of Personal Licences issued increased from 79 to 81. While the number of Temporary Events Notices (TENs), showed a decrease from 180 to 159 compared to the last summer period. This may in part reflect a change in those activities needing to apply for a TEN due to regulated entertainment de-regulation.

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

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

a slight increase in number.

A1.7 The general picture is therefore still a fairly static picture, however with a small increase in Premises Licences.

A1.8 The Government is intent on the removal of the requirement for Personal Licences. It has consulted on a range of options to uphold the educational and public safety safeguards that Personal Licences addressed. There are weaknesses in the current system. These are that once a Personal licence is issued only the court can revoke them and then only when they are aware that the 'defendant' holds one. There is also no national register so for a period of ten years there is arguably inadequate accountability.

A1.9 The option that is supported in the consultation submission is that a current qualification and Disclosure and Barring Service check become part of the Designated Premises Supervisor application. Annex one gives the background to the consultation and annex two Torbay Council's response.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

There are no risks associated with this report.

A3. Options

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

A4. Summary of resource implications

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

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

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

A6. Consultation and Customer Focus

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

A7. Are there any implications for other Business Units?

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

Annexes

Annex One Home Office Consultation on the removal of Personal Licences

Annex Two Torbay Council's submission for the Consultation on the Removal of the requirement for Personal Licences.

Documents available in members' rooms

None

Background Papers:

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

None



Home Office

Consultation

Personal Alcohol Licences: Enabling Targeted, Local Alternatives

September 2013

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Ministerial foreword



This Government has already reformed licensing to give more power to local people and individuals – residents, licensing authorities and police officers – who are best placed to tackle alcohol-related harms. And where previous governments looked for top down solutions, our recent response to the Alcohol Strategy consultation set out how government, local people and industry all have a role to play.

Alcohol doesn't always cause problems, though. For example, in local pubs, at museums, galleries, sports clubs and charity events, alcohol can bind communities together and drive local growth – if sold responsibly. That is why, while taking a firm line on the harms caused by alcohol, this Government has also committed, where possible, to cut red tape for businesses without undermining important safeguards against alcohol-related harm.

Our consultation response has already detailed a range of measures to free up responsible businesses, from increasing the limit for Temporary Event Notices from 12 to 15 to introducing a brand new authorisation for community and ancillary sellers. But there's more that can be done.

Responses to the Alcohol Strategy consultation suggested that the system of personal licences may not always be the most efficient and effective way of tackling crime and disorder. Its cost to businesses – in application fees, training and criminal records checks – is significant. And yet it applies to everyone in the same way, regardless of local circumstance or risk. We have already announced that we will reform the system by removing the requirement to renew them. However, we believe that there may be a way to further enable better and more targeted alternatives to the system as a whole.

This consultation seeks your views on our ideas for how that might happen.

A handwritten signature in black ink, appearing to read 'Jeremy Browne', followed by a horizontal line.

Jeremy Browne MP
Minister of State for Crime Prevention

About this consultation

Scope of the consultation

Topic of this consultation:	This consultation seeks your views on whether personal licences should be abolished, enabling licensing authorities to apply relevant conditions to premises licences where appropriate.
Scope of this consultation:	Licensing authorities, the police, the licensed trade
Geographical scope:	England and Wales
Impact Assessment (IA):	A consultation stage IA is included with the consultation document.

Basic information

To:	We are keen to hear from everyone who would be affected by the measure, including licensing authorities, residents' groups, police, the trade and health bodies.
Duration:	The consultation runs for eight weeks from 12 September to 7 November.
Enquiries:	personallicencesconsultation@homeoffice.gsi.gov.uk
How to respond:	<p>Information on how to respond can be found on GOV.UK. Responses can be submitted online through the Home Office website www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives or by post by sending responses to:</p> <p>Alcohol Team Drugs and Alcohol Unit Home Office 4th Floor Fry Building 2 Marsham Street London SW1P 4DF</p>
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The department is obliged to both offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed and a 'Response to the Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

1. Introduction

1. Alcohol-related crime and anti-social behaviour is unacceptable, costly and dangerous. In 47% of violent incidents, the victim believed the perpetrator to be under the influence of alcohol and a fifth of all violent incidents took place in or around a pub or club¹. The cost of alcohol misuse in England alone is estimated at £21 billion a year².
2. The Government has set out in its Alcohol Strategy, and in its recently published response to the Alcohol Strategy consultation, a whole range of national and local measures to tackle these alcohol-related harms. Nonetheless, the stark statistics about harmful drinking should not distort the wider picture of alcohol's place in our national life. In local pubs, at museums, galleries, sports clubs and charity events, alcohol makes for more vibrant communities. As the alcohol industry supports 1.8 million jobs across the country, it makes them richer and encourages growth, too³.
3. In the vast majority of these cases, alcohol is consumed responsibly – and sold by responsible businesses. One of the main focuses of this Government has been to free up this responsible majority from unnecessary red tape to help drive local growth – while maintaining the safeguards needed to tackle the irresponsible behaviour of a few.
4. In its response to the Alcohol Strategy consultation, the Government has already set out some of the ways it will make alcohol licensing more targeted, proportionate and flexible. These include increasing the TENs limit from 12 to 15, allowing for a more flexible and proportionate approach to late night refreshment, and creating a new, light touch authorisation for community and ancillary sellers of alcohol – the Community and Ancillary Notice (CAN).
5. In addition, the Government will also reform the system of personal licences. First, we do not believe that renewing personal licences every ten years is an effective or proportionate way to tackle crime and disorder. We have therefore committed to removing that requirement. The Government has also listened to wider concerns that the whole system of personal licences itself may be poorly targeted and ineffective. Secondly, then, it also committed to consulting on the abolition of personal licences altogether.
6. This consultation sets out the Government's proposal for how alcohol licensing would work if personal licences were abolished. It seeks your views on whether this would reduce burdens on business or undermine the four licensing objectives⁴.

1 Office for National Statistics (2013). Crime Statistics, Focus on: violent and sexual offences, 2011/12.

2 The Government's Alcohol Strategy (2012).

3 The economic outlook for the UK drinks sector and the impact of the changes to excise duty and VAT announced in the 2008 Budget and Pre-Budget Report, Oxford Economics (February 2009).

4 The four licensing objectives are: public safety; preventing crime and disorder; preventing public nuisance; and protecting children from harm.

2. Proposal

The current system of personal licences

7. The current system of personal licences requires that all alcohol sales be made or authorised by a personal licence holder. At the same time, the Designated Premises Supervisor (DPS) in relation to licensed premises must hold a personal licence.
8. This system uses two key safeguards to ensure that alcohol is sold responsibly and to prevent crime and disorder at licensed premises. First, personal licences may be denied to, or forfeited from, those who have criminal convictions for certain offences. Secondly, applicants for a personal licence must be trained. To ensure a level playing field for bar staff nationally, these safeguards are qualified by two 'benchmarks' set by Government:
 - i. only offences listed as relevant under the 2003 Act may be considered as a basis for denying the grant of, or revoking, a personal licence; and
 - ii. only training courses accredited by the Secretary of State are valid for applications.

Weaknesses of the current system

9. Following our discussions with partners during the Alcohol Strategy consultation, we have become concerned that this system may not be effective in ensuring responsible sales and tackling crime and disorder. For example, although all alcohol sales must be at least authorised by a personal licence holder, it is not always the case, in practice, that a personal licence holder is present on the premises at all times to do this. Moreover, no person working at licensed premises except the DPS is required to hold a personal licence. All this would seem to restrict the system's ability to prevent those with criminal records and a poor understanding of alcohol harms from working at, or even managing, a licensed premises.
10. Finally, and perhaps most fundamentally, the system is not targeted. It is a national, blanket requirement. All premises, from the riskiest to the quietest, must comply with it – and incur significant costs in training, application fees and criminal records checks as a result. This Government questions whether this is appropriate for all licensed premises.

Premises licence conditions as a local alternative

11. Licensing authorities already have the power to impose conditions on premises licences, as long as those conditions are precise, enforceable and appropriate to promote the licensing objectives for the premises in question. They are a flexible tool: conditions may, for example, require that CCTV be installed or that door staff be present. They may also, already, require strict training requirements of those selling alcohol, over and above the requirements already in place through the personal licences regime.

12. The Government recognises that the safeguards afforded by personal licences – training and criminal records checks – are important tools that may be appropriate in specific cases. However, conditions added to premises licences could provide a better and more targeted way of applying these safeguards. Licensing authorities and the police would have a more flexible tool at their disposal over which they had local control. Well run businesses, for their part, would no longer have to spend money on unnecessary training and criminal records checks.

Enabling the local alternative

13. To ensure that licensing authorities could use such conditions in a flexible and effective way, if this proposal were taken forward the Government could maintain, and even strengthen, existing legislation in two key ways.

14. First, we could keep the national benchmarks for training and criminal records checks. At present, these ensure that a level playing field for business exists across the country. In the event that personal licences were abolished, these benchmarks would still ensure that, if training or criminal records checks were required at a premises, businesses would not have to comply with different standards from one licensing authority to another. For example, we believe that removing the Government's accreditation of training courses could increase burdens on business if employees had to be trained multiple times to comply with different local standards.

15. Secondly, we could strengthen existing legislation in several areas.
We could:

- i. Require all alcohol sales to be made or authorised by the DPS, rather than a personal licence holder
- ii. Allow the police to object to a new DPS based on the crime prevention objective in general, rather than only in 'exceptional circumstances'
- iii. Allow licensing authorities to require a criminal records declaration to be provided with any new application to vary a DPS
- iv. Allow those who either are named as the DPS in relation to a premises licence or have accredited training to give up to 50 Temporary Event Notices (TENs) a year; those without would be limited to giving five.

16. Finally, to make any conditions requiring training easy to enforce for the police and licensing authorities, we would work with training providers to ensure that training certificates can be provided in a readily available and easily recognisable form.

17. A summary of this proposal, including the above potential changes to legislation, is at Annex A of this consultation document. An Impact Assessment, explaining how it would affect business, is also available on GOV.UK. Questions based on this proposal are set out at Section 4.

3. Information about you

The following questions ask for some information about you. The purpose of these questions is to provide some context on your consultation responses and to enable us to assess the impact of the proposals on different groups of people. By providing this information you are giving your consent for us to process and use this information in accordance with the Data Protection Act 1998.

Company name or organisation:

Which of the following best describes you or the professional interest you represent? Please select one box from the list below:

- Individual involved in licensed trade/club premises
- Small or medium sized enterprise involved in licensed trade/club premises (up to 50 employees)
- Large business involved in licensed trade/club premises
- Trade body representing the licensed trade/club premises or alcohol producers
- Alcohol-related best practice scheme
- Person or organisation specialising in licensing law
- Voluntary and community organisation
- Licensing authority – if yes, please specify:

- Licensing authority officer
- Public health body (e.g. Primary Care Trust, Local Health Board, Director of Public Health)
- Local Government (other)
- Police and crime commissioner
- Police force
- Police officer
- Member of the public
- Other (specify in the box below):

4. Questions

Question 1: Do you think the Government's proposal would reduce burdens, in terms of time and/or money, on business, including small and medium enterprises?

Yes

No

D/K

Question 2: Do you think this proposal would undermine the licensing objectives? The four licensing objectives are: public safety; preventing crime and disorder; preventing public nuisance; and protecting children from harm.

Yes

No

D/K

Question 3: Do you think nationally accredited training courses for those authorising alcohol sales are necessary to help licensing authorities promote the licensing objectives?

Yes

No

D/K

Question 4: Do you think a statutory list of relevant offences, such as theft or handling stolen goods, is necessary to help licensing authorities promote the licensing objectives?

Yes

No

D/K

Question 5: For what proportion of premises in your area do you think conditions requiring nationally accredited training would be appropriate?

<10%

25%

50%

75%

>90%

Question 6: For what proportion of premises in your area do you think conditions requiring criminal records declarations for future Designated Premises Supervisors would be appropriate?

<10%

25%

50%

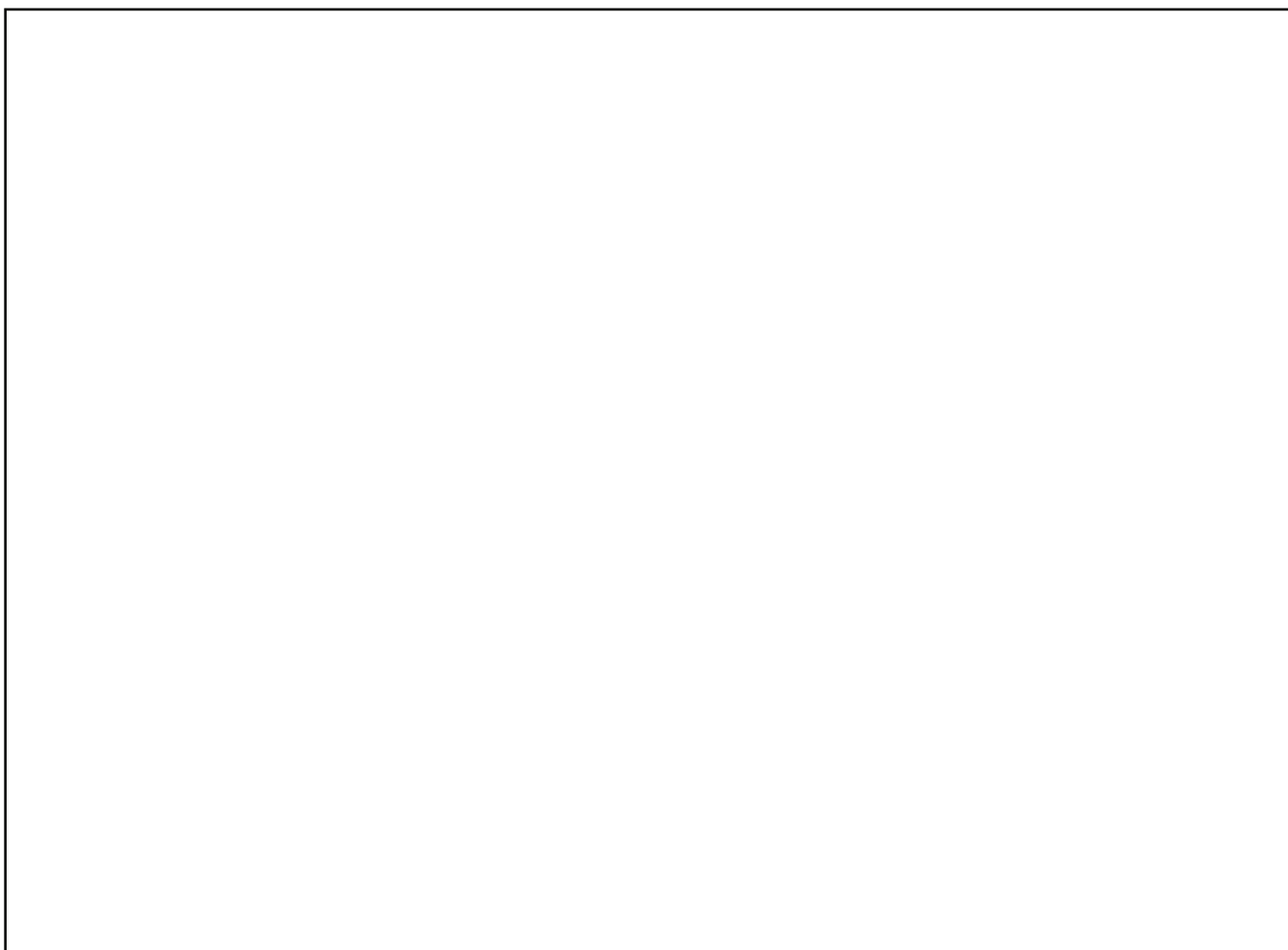
75%

>90%

Question 7: Below, please provide evidence to support the answers you've given, making clear to which question the evidence refers.



Question 8: Is there anything else you think the Government should consider?



5. Glossary

Designated Premises Supervisor	Under the 2003 Act, licensed premises that authorise the sale of alcohol must, in most cases, have a DPS specified in the licence. Only a person who holds a personal licence can be a DPS.
The Government's Alcohol Strategy	Published on 23 March 2012, the Strategy sets out how to tackle the problems caused by people drinking to excess.
The Licensing Act 2003	The 2003 Act established a single, integrated scheme for licensing premises which are used for the sale or supply of alcohol, the provision of regulated entertainment, or the provision of Late Night Refreshment.
The licensing objectives	Licensing authorities are defined in the 2003 Act. They are primarily district councils or unitary authorities in England and county boroughs in Wales. Licensing authorities grant and administer premises licences, club premises certificates and temporary event notices in their area, as well as, for example, personal licences and renewals of personal licences.
Personal licences	Under the 2003 Act, each sale of alcohol under a premises licence must, with some exceptions, be made under the authority of a personal licence holder. A personal licence does not need to be associated with specific premises, and a person can apply for a personal licence if they are not currently working at any licensed premises.
Temporary Event Notice (TEN)	Under the 2003 Act, a TEN enables the person who gave the TEN to carry on licensable activities (including selling alcohol) on an occasional basis without any other authorisation. The TEN must be given to the licensing authority, the police, and the environmental health authority (EHA). The police or the EHA can object on grounds related to any of the licensing objectives. There are limits on the number of TENs a person may give each year or the number of TENs which may be given in relation to specific premises. It is an offence to carry on a licensable activity without an appropriate authorisation.

6. Annex A – Proposal Summary

Our proposal to abolish personal licences would cut unnecessary bureaucracy for businesses while maintaining key safeguards to tackle irresponsible premises. As well as abolishing personal licences, we would maintain, or even strengthen, existing legislation in several ways. We would:

- i. Amend the mandatory conditions to require all alcohol sales to be authorised by the DPS, rather than a personal licence holder;
- ii. Allow the police to object under s.37 of the 2003 Act to a new DPS based on the crime prevention objective in general, rather than only in ‘exceptional circumstances’;
- iii. Allow licensing authorities to require a criminal records declaration with each new change of a DPS; and
- iv. Allow those who either are named as the DPS on a premises licence or have accredited training to give up to 50 Temporary Event Notices (TENs) a year; those without would be limited to giving only five.

	Now	Proposal
Who must be trained?	<p>All personal licence holders, in effect:</p> <ul style="list-style-type: none"> • The DPS in relation to a premises licence • Those who may authorise alcohol sales 	<p>No-one; unless required to be trained by a condition imposed on the premises licence</p>
What is the benchmark for training?	All training courses must be accredited by the Secretary of State	
How can training be checked?	Inspection of the personal licence application ; and subsequently the personal licence itself at a premises	Inspection of a certificate of training at a premises
Who must provide a criminal records check?	<p>Applicants for, and those renewing, personal licences, in effect:</p> <ul style="list-style-type: none"> • The DPS in relation to a premises licence • Those who may authorise alcohol sales 	<p>No-one</p>
Who must provide a criminal records declaration?		<p>No-one; unless a condition imposed on a premises licence requires that all future applications to vary the DPS be accompanied by a criminal records declaration</p>
What is the benchmark for criminal convictions?	Only those offences listed as relevant in Schedule 4 to the Licensing Act 2003 may be considered	

Personal Licence Consultation – Home Office

Question 1: Do you think the Government’s proposal would reduce burdens, in terms of time and/or money, on business, including small and medium enterprises?

Yes

Question 2: Do you think this proposal would undermine the licensing objectives? The four licensing objectives are: public safety; preventing crime and disorder; preventing public nuisance; and protecting children from harm.

Yes

Question 3: Do you think nationally accredited training courses for those authorising alcohol sales are necessary to help licensing authorities promote the licensing objectives?

Yes

Question 4: Do you think a statutory list of relevant offences, such as theft or handling stolen goods, is necessary to help licensing authorities promote the licensing objectives?

Yes

Question 5: For what proportion of premises in your area do you think conditions requiring nationally accredited training would be appropriate?

>90%

Question 6: For what proportion of premises in your area do you think conditions requiring criminal records declarations for future Designated Premises Supervisors would be appropriate?

>90%

Question 7: Below, please provide evidence to support the answers you’ve given, making clear to which question the evidence refers.

Questions 3, 4, 5 and 6.

It is clear that the current Personal Licence system has some significant weaknesses. Although the Council issues them, and can in certain circumstances refuse to grant them, only the courts can remove them and then only if the person before them owns up to having one. It is therefore very likely that many people have criminal records of concern but still have Personal Licences. There is also no national register to cross reference criminal records, check who has licences etc. So the system is open to abuse. The renewal process will have addressed this, but only for that moment in time.

The government’s proposal is to abolish this. What will potentially be lost is competence and public safety. On the matter of competence, it is imperative that licensees understand the law so at least those who will ensure compliance at a premises understands what to do.

A training element must therefore remain. The second is public safety. The knowledge is that if someone has a criminal record of concern they can be brought before Licensing Committee for a decision as to whether they are suitable.

A better system, and one of the options being proposed, is as part of a new requirement of applying to be a Designated Premises Supervisor (DPS) the applicant needs to produce a current Disclosure and Barring Service (DBS) and current qualification. One potential difficulty this might cause is a delay between making the application and granting it but this can be overcome by providing that the two documents have a 'life' i.e. three to six months in the case of DBS. A qualification could last 3-5 years. It would potentially make the DPS more accountable than they are currently as the DBS would have to be renewed more often. And there is a new on line system with a small annual payment that keeps the DBS current continuously.

I believe any other system/option places a greater burden on the Local Authority and the Police in a climate of reducing resources and a greater risk of any individual of concern being in place to sell alcohol because the current system assumes automatic grant of a new DPS until the objection is raised by the Police. To get this to a hearing will take a further 2-4 weeks. If the applicant had to wait until the Police had done their checks this would place an unreasonable burden on the business, for example if their current DPS resigned they may have to cease selling alcohol for a period until an application has been lodged and looked at. The Personal Licence system prevents this happening, but it is key that this safeguard of public safety and competence is maintained and in fact strengthened with the option Torbay Council supports.

Since competence and public safety apply to the vast majority of premises, it should be applied to all Designated Premises Supervisor (DPS) applications. Hence why Torbay council recommends >90%. The decision as to who needs to have qualifications and DBS check should follow the need to have a DPS which is already covered in the Licensing Act 2003 and would therefore require fewer changes to the Act.

Question 8: Is there anything else you think the Government should consider?

Question 2

If the option recommended in Question 7 is adopted, then Torbay Council does not believe these changes will undermine the Licensing Objectives. If however a weaker option is chosen then it certainly will undermine the Licensing Objectives, hence the answer is yes, as insufficient options were given in the answer.