

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: **8th August 2019**

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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 24th November 2005.

A1.2 As of 31st March 2019 Torbay Council had 794 Premises Licences/Club Premises Certificates; this number is net of licences issued against those that have lapsed or been surrendered or revoked since the Act came into force. This figure represents a net increase of 1 on the previous 6 month period.

In the 6 months between 1st October 2018 and 31st March 2019, the Licensing Sub Committee has held 3 hearings, which means that the total hearings held since implementation of the Licensing Act 2003 (in November 2015) is 591.

Additionally up to 31st March 2019, 3451 Personal Licences have been issued, of which 126 were between 1st October 2018 and 31st March 2019.

A1.2 From 1st October 2018 to 31st March 2019 Torbay Council has dealt with the following applications under the Licensing Act 2003.

	Total
Premises/Club Premises Applications – New	9
Premises/Club Premises Applications – Variations	6
Premises/Club Premises Applications – Minor Variations	15
Personal Licences	126
Hearings (Licensing Committee/Sub-Committee)	3
Appeals (to Magistrates Court)	2
Temporary Event Notices	145
Reviews of Licences (Licensing Committee/Sub-Committee)	4
Transfers of Premises Licences/Club Premises Certificates	31
Transfers of Designated Premises Supervisors	64

A1.3 The number of Premises Licence applications being received by the Licensing and Public Protection Team over the stated 6 month period was 9 which fits with the normal average of around 20 per annum.

A1.4 The number of Personal Licences issued in the 6 months between October 2018 and March 2019 was 126, which represents a significant increase given that the entire previous 12 month period saw a total of 122.

A1.5 The number of Temporary Events Notices (TENs), was 145 for the stated 6 month period. Whilst this represents only around 40% of the usual annual average, it is worth noting that the reporting period covers the winter months and this is therefore, quite consistent with previous years given that the summer is the more popular time for submitting TENs.

A1.6 There have been two appeals submitted against Licensing Sub-Committee decisions in the 6 months between October 2018 and March 2019. There have been 31 appeals in total in the nearly 14 years since the Licensing Act 2003 came into force, 14 of these have arisen from Review decisions.

The latest 2 appeals were:

Churston Court Hotel, which followed the removal of the Live Music Act exemption from the scope of the Premises Licence, this was eventually withdrawn by the licence holder and resulted in an award of costs to the Council of £5410.80.

Jolly Judge, which is currently ongoing and follows the revocation of the Premises Licence following a review submitted by Devon and Cornwall Police. This matter is due to be heard by Magistrates on 23rd and 24th September 2019.

A1.6 Transfers of Licences and Designated Premises Supervisors variations are around the average level that is expected.

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.

The fees are set by the Secretary of State under powers given in the Act to set regulations (Statutory Instrument 2005/79 entitled 'The Licensing Act 2003 (Fees) Regulations 2005).

There has been no update or increase in the fees set since implementation in November 2005 and therefore the real terms value of income received under the Act diminishes year on year through the effects of inflation.

Section 121 of the Police Reform and Social Responsibility Act 2011, contained a power for Licensing Authorities to locally set fees. Unfortunately regulations have never been passed to enact this provision and as such, the centrally set fees remain in force at the same level as when the legislation was first enacted.

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