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## **Torbay Council's Statement of Licensing Policy**

### **What is it and why is it important?**

This guide seeks to explain why Torbay has a Statement of Licensing Policy and why it is in the form it is. It explains how the Council as the Licensing Authority will use the Policy and how applicants and others can use it to assist and streamline applications or representations they may wish to make.

### **Why have a licensing policy?**

The short answer is that changes brought about by the Licensing Act 2003 have made Torbay Council a Licensing Authority and responsible for a whole range of licensing matters. Some of these were previously dealt with by the Licensing Justices; some were already administered by the Council; and some are completely new requirements.

As a new Licensing Authority the Council must prepare and publish a statement of its licensing policy and review it at least every three years. This policy must set out the basic guiding principles of licensing that are laid down by law but must also explain the general approach that the Licensing Authority and other authorities and people involved in the process intend to follow when issuing licences and their expectations of applicants and others. The policy attempts to strike a balance by encouraging a vibrant leisure and entertainment economy whilst protecting the rights of residents and others who may be unreasonably affected by licensable activities.

### **Why is the Policy so long?**

Licensing Policies have to cover many different types of businesses and activities that the Licensing Authority will be called upon to licence. Parts of the policy may never apply to your business and parts of it may seem remote from what affects you. When the Government

enacted the Licensing Act 2003 it required the inclusion of some mandatory conditions that have been shown in the Licensing Policy. The Government also issued guidance to all new Licensing Authorities, much of which they are obliged to follow. Part of the guidance sets out certain statements and subjects that the policy must contain. The rest of Torbay's policy has been contributed by the Council, its statutory agency partners such as the Police and Fire Service and all of the other people with whom the Council have consulted with, including existing licence holders, other businesses and residents in Torbay.

## **How will the Council use this Policy?**

The Policy is arranged around a number of headings and each of these is divided into bullet points.

The main headings are:-

### **■ The Guiding Principles that direct the Council in making its licensing decisions**

These are the basic principles that Torbay Licensing Authority intends to follow. Its duties and responsibilities in respect of licensing; its views as an elected body, the things it will do or feels strongly about, the things it expects of others and its recommendations to those with an interest in licensing issues in Torbay. Collectively this set of principles sets the Authority's vision of licensing in Torbay.

### **■ Primary considerations when an application is made**

This is about how the Licensing Authority views applications for licence. It's about the things it expects to have been done or to have been considered by the applicant before it is asked to consider the application.

Some of it is about paperwork and presenting existing information and some of it is intended to help lead an applicant systematically through a thought process to enable them to consider those things that the Authority considers important with respect to the licensing objectives, and will wish to be reassured about when making its deliberations.

## ■ The Council's rationale for issuing licences

This deals with who makes decisions about licences and whether a licence is issued with or without conditions.

Some straightforward decisions on issuing licences can be made by authorised Council Officers whilst other are made only by the Licensing Committee or its Sub Committee in accordance with the Council's scheme of delegation that it set out in this part of the Statement. Any decisions made by the authorised Officers will be reported to the licensing Committee or Sub Committee for its information at a later date. Once a decision has been reached to issue a licence then the Licensing Authority must impose any mandatory conditions on that licence that are required by the Licensing Act and it can also, if it considers it necessary, impose other conditions to ensure that the licensing objectives are met. The Council has produced a 'Pool of Conditions' that is available to applicants from the Council's website so that they can select any that they wish to be attached to their licence to support their intentions to contribute to the licensing objectives.

## ■ The role and influence of representations

The Licensing Authority must remain well informed so that it can make balanced, fair decisions based on all the relevant information and with the knowledge of the implications of those decisions.

It will hold an annual public meeting to involve the community on licensing matters and to establish how well the licensing objectives are being met locally.

It will seek updating reports from planning, local crime prevention, transport, tourism, child protection, local employment and investment agencies, the Police and other statutory partners and from local trade and business groups.

It will monitor the impact of its policies on regulated entertainment, particularly live music.

Any applicants, residents, businesses or statutory agencies that can be directly affected by a licensing decision has the right to make their views known, unless those views have been considered already within the previous twelve months or are vexatious or unreasonable.

Persons making representations are expected to confine those representations to the licensing objectives and to provide information to support their assertions. The

Authority will deal with each application or representation on its merits. It will not impose 'blanket' conditions (save for mandatory conditions it must impose by law) and it will give written reasons explaining the decisions it makes.

## ■ The way the Council and others communicate and enforce requirements

The Licensing Authority have committed to providing a transparent, fair and efficient service to the community.

This part of the policy explains how it intends to maintain the quality of its service and how it will regulate the activities of its enforcement officers. It sets out the protocols intended with its partner organisations to ensure effective communications, early identification of issues, the avoidance of duplication between agencies and the influences and enforcement controls that may be used to support the maintenance of the licensing objectives.

## **How can the Policy be used by applicants and those wishing to make representations?**

An application must be on the specified form and satisfy the Licensing Authority in respect of the four licensing objectives:-

- The prevention of crime and disorder;
- The promotion of public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each of these objectives is of equal importance.

Objectors, appellants and those statutory agencies to be consulted must direct their focus only on these objectives.

The licensing policy lists under each of the four objectives, the Authority's licensing criteria. It is the information provided by an applicant or other person making a representation in respect of these criteria that is crucial to the progression of the submission. The information must be sufficiently detailed with regard to the licensing objectives to enable the Authority to form a comprehensive view from which it can make its decision.

The Licensing Authority will examine all submissions systematically against its licensing criteria and will wish to be satisfied that each has been fully considered for its applicability. Each criterion must be responded to, either as 'not applicable' or as 'relevant' in which case it must be accompanied by a full explanation of the measures in place or proposed, to contribute to, and uphold the overall licensing objective.

Applicants and objectors are advised to consider the fullness of their responses to the licensing criteria. The statutory consultees as well as the Licensing Authority will examine each application against these criteria and it is advisable for those involved to take time to ensure that their view is expressed clearly, accurately and comprehensively to avoid the need for the matter to be referred back for further clarification. It is recommended that advice be sought from the relevant specialist or statutory consultee prior to submitting the application or representation to ensure that they are broadly supportive of the application as it stands. If they are not it would be advantageous to try to gain agreement on the matter before submitting the application to the Licensing Committee for its consideration.

The measures agreed through this process will become an integral part of any premises licence issued and as such will be binding on the licence holder. It is important therefore that only those measures that can be delivered and are within the control of the prospective licence holder should be offered. Non-delivery of a measure that was proposed and accepted when the premises licence was issued will constitute an offence for breach of licence under the legislation and the penalties can be significant.

If you require any further information please contact the Licensing Team on 01803 208126.