

Wednesday, 28 May 2025

REGULATORY SUB-COMMITTEE

A meeting of **Regulatory Sub-Committee** will be held on

Thursday, 5 June 2025

commencing at **9.30 am**

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Douglas-Dunbar

Councillor Foster

Councillor Stevens

A Healthy, Happy and Prosperous Torbay

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

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

REGULATORY SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Sub-Committee.
3. **Minutes** (Pages 5 - 10)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 1 May 2025.
4. **Declarations of interests**
 - (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.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Exclusion of Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
7. **Application for Torbay Council Driver's Licence** (Pages 11 - 26)
To consider a report on the fit and proper status of an applicant who seeks to hold a Torbay Council Driver's Licence

Minutes of the Regulatory Sub-Committee

1 May 2025

-: Present :-

Councillors Johns, Barbara Lewis and Chris Lewis

14. Election of Chairman/woman

Councillor Barbara Lewis was elected as Chair for the meeting.

15. Minutes

The Minutes of the meeting of the Regulatory Sub-Committee held on 27 February 2025 were confirmed as a correct record and signed by the Chairwoman.

16. Urgent Items

Prior to consideration of the items in Minute 17 and 18, the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information, as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

17. Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence

Members considered a report on the fit and proper status of the holder of a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence.

The Licensing Officer presented the report which set out information that had been received from Devon and Cornwall Police that a dual Hackney Carriage and Private Hire Driver's Licence Holder had received five speeding offences since 24 April 2024. The dual Hackney Carriage and Private Hire Driver's Licence Holder had failed to meet specific requirements as set out in the current Taxi Policy 2022, by virtue of having failed to inform Torbay Council of the DVLA penalty points issued.

Decision:

That the Respondent's Torbay Council Driver's Licence be suspended for a period of three months, in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 and that this suspension shall have immediate effect, in accordance with Section 61(2B) of the Local Government Miscellaneous Provisions Act 1976.

During the period of suspension, the Respondent must undertake and successfully complete a RoSPA Level 2 Award in Advanced Driving, or similar, and produce written evidence to that effect to Torbay Council's Licensing Department.

Failure to do so will result in the Respondents Torbay Council Driver's Licence being revoked with immediate effect from the date the suspension expires.

Should the Respondent successfully complete the required course within a shorter period from the date of suspension and produce sufficient evidence to that effect, the suspension will cease on written confirmation to the Respondent from Torbay Council's Licensing Department.

Members determined, having considered all the evidence before them, that the suspension should have immediate effect, in the interest of public and customer safety, having determined that currently the Respondent was not a fit and proper person to hold a Torbay Council's Driver's Licence.

Reasons for the Decision:

In coming to their decision, Members carefully considered, having been charged with the responsibility to determine the driver's licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with the Respondent alone. After some deliberation, Members' unanimous answer to this question was 'no'.

Members were concerned to hear from the Licensing Officer as to the repeated speeding offences committed by the Respondent which had led to the accumulation of 12 penalty points on his DVLA driving licence, all of which had occurred whilst the Respondent was on duty as a driver licensed by Torbay Council, and in an area within which he had been working as such for 8 years, and had lived for 15 years. Members found it unlikely that the Respondent was unaware of the 30-mph speed limit, as claimed, or could not have determined this from his own investigations, and were surprised to hear from the Respondent in his oral submissions that he had relied upon incorrect advice from a friend that the speed limit for the road in question was 40 mph.

Members noted that this differed from the Respondent's written submission which made no mention of being mistaken as to the speed limit and instead sought to justify his speed on the basis that the road was 'quite empty and nobody was on the road'.

Members were further concerned that there had been a subsequent failure to inform the Licensing Authority of the speeding offences within 48 hours, as required by Torbay Council's Taxi Policy. When questioned as to this failure the Respondent advised that he was waiting for the matters to be heard by the Magistrates Court and therefore to have received convictions before advising the Licensing Department as required.

In reaching their decision, Members had regard to the Torbay Council Taxi and Private Hire Vehicle Licensing Criminal Convictions Policy found at Appendix A of the Taxi Policy, and the options set out within to suspend or revoke a Torbay Council Drivers Licence upon the accumulation of 9 or more penalty points.

Members gave careful consideration to revoking the Respondent's driver's license but resolved that as, other than his speeding offences, he had an untarnished record, and together with the remorse shown within his oral submission, a short suspension was reasonable and appropriate with the requirement that the Respondent must successfully complete an advanced driver course before recommencing his professional duties as a licensed driver. This would provide them with confidence in his fitness and properness as considering the Respondent's confusion as to the appropriate speed limit, Members could not be satisfied that he was either aware, or abiding by, the correct speed limits all on other roads, or indeed all other aspects of the Highway Code.

Upon successful completion of the course, Members hoped that the Respondent would be able to return to work as a licensed driver and be capable of fulfilling the standards reasonably expected of a professional driver.

Whilst the written submissions made by the Respondents children were noted by Members, they were mindful of the Institute of Licensing Suitability Guidance 2024 which states that any exceptional hardship arguments are not a relevant consideration and therefore these could not be taken into account as part of their deliberations.

In concluding, Members resolved to suspend the Respondents drivers' licence with immediate effect, as they could not be satisfied that he remained a 'fit and proper person' to hold a Torbay Council Dual Hackney Carriage and Private Hire Drivers Licence. In determining this, Members believed that the Respondents skill as a professional driver had fallen below the standard expected of him and to suspend the licence with immediate effect was in their opinion, both necessary and proportionate, to ensure public safety.

18. Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence

Members considered a report on the fit and proper status of the holder of a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence.

The Licensing Officer presented the report which set out information that had been received from the Respondent and Devon and Cornwall Police that the dual Hackney Carriage and Private Hire Driver's Licence Holder had failed to meet specific requirements as set out in the current Taxi Policy 2022, by virtue of having pleaded guilty to a criminal offence under Section 2A of the Protection from Harassment Act 1997, stalking without any suggestion of fear or violence; and had failed to notify the Licensing Department of an arrest made in 2023.

Decision:

That the Respondent's Torbay Council Private Hire Drivers' Licence be revoked in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 and that this revocation shall have immediate effect, in accordance with Section 61(2B) of the Local Government Miscellaneous Provisions Act 1976.

On the separate issue of the Hackney Carriage Vehicle Proprietor Licence, that the Respondent, notwithstanding his conviction, can continue to hold such a licence subject to all other requirements being met.

Reasons for Decision:

In coming to their decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with the respondent alone. An unequivocal and unanimous answer by Members to this question, was "no".

Members heard from the Licensing Officer that the Respondent had not fully complied with the requirements of Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy (Taxi Policy), in failing to notifying the Licensing Department of an arrest in 2023. Further to a separate incident, Members were tasked to determine the Respondents fitness and properness following a conviction recently received for the offence of 'stalking without fear or violence' to which the Respondent had pleaded guilty, but which he had reported to the Licensing Department as required.

Members heard from the Respondent that he first met the complainant in 2018 when they were a paying passenger in his vehicle, and that they had had infrequent contact in the years that followed only when their paths crossed, until a post on social media had caused them to converse, and further contact ultimately led to the Respondent being arrested, and advised not to contact the complainant again. Regrettably, he then did so whilst intoxicated and dealing with the terminal illness of a family member. Whilst Members had some sympathy for the Respondent who felt he had received some pessimistic legal advice causing him to enter a guilty plea for a lesser offence to that which he was originally charged; and his demeanour appeared remorseful, Members found his oral presentation as to the circumstances that led to his conviction to be garbled, and did not find him to be entirely believable in his account.

Despite his unblemished record of some 20 years, Members could not be satisfied that the Respondent would not repeat this behaviour and befriend another passenger and were further concerned by the Respondents failure to heed the Police warning.

Members were referred to the Taxi Policy and in particular the Criminal Convictions' Policy found at Appendix A and whilst noting that this did not specifically include the offence of 'stalking without fear or violence', it was sufficiently similar to the offence of harassment which was listed. In addition, Members noted the Institute of Licensing Suitability Guidance which at paragraph 4.36 states that:

'Where an applicant or licensee has been convicted of a crime involving, relating to, or has any connection with abuse, exploitation, use or treatment or criminal harassment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child exploitation, grooming, psychological, emotional or financial abuse, stalking without violence, but this is not an exhaustive list.'

In concluding, Members resolved to revoke the Respondent's drivers' licence with immediate effect, as they could not be satisfied that he remained a fit and proper person to hold a Torbay Council Dual Hackney Carriage and Private hire Drivers Licence. In determining this, Members believed that the Respondent's conduct as a professional driver had fallen below the standards expected of driver licenced by Torbay Council and resolved that to revoke his licence with immediate effect was both necessary and proportionate, to ensure public safety.

Members further determined that the Respondent remained fit and proper to hold a Vehicle Proprietors Licence on the basis that this did not allow direct contact with members of the public.

Chairman/woman

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