



Report No: **94/2011** Public Agenda Item: **Yes**

Title: **Suspension of Hackney Carriage Driver's Licence – Mr Keith Brown**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **28 April 2011**

Key Decision: **No**

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

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1. What we are trying to achieve

- 1.1 This report concerns a Hackney Carriage Driver who despite several warnings has failed to comply with the Road Traffic Orders and Byelaws of Torbay Council whilst going about his business.

2. Recommendation(s) for decision

- 2.1 It is recommend that:

1. Mr Keith Brown's Hackney Carriage Driver's Licence be suspended for 7 days.

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 Section 61 Local Government (Miscellaneous Provisions) Act 1976 gives the Local Authority the power to suspend or revoke a Hackney Carriage Driver's Licence for 'any other reasonable cause'.
- 3.3 This report concerns Hackney Carriage Drivers queuing and parking in areas in Torbay covered by Road Traffic Orders, as well as causing an obstruction to other road users. This has resulted in complaints from The Police, other road users and members of the public, as well as the general concerns Officers have about safety. This is particularly prevalent on Torquay harbour side but applies elsewhere too.

- 3.4 Although a number of different measures had been tried and three letters sent to all Hackney Carriage Drivers during 2009, problems were not resolved. In an attempt to address this, the Officer working party, with attendees from Parking Enforcement, Highways, Licensing, Transportation and the Police met again. It was decided at this meeting to propose moving the Taxi's ranks from The Strand, onto Torwood Street. This raised significant concerns amongst drivers so Officers attended a meeting with them to discuss the ongoing issue. The outcome of that meeting is that a trial was implemented to see if the Hackney Carriage Drivers would comply with the Road Traffic Orders. To help this, significant enforcement took place as well. A letter was sent to all Hackney Carriage Drivers advising them of the trial and the enforcement that would take place both on the harbourside and elsewhere, see Appendix 3.
- 3.5 Despite these letters, of which all were sent to Mr Brown, on 15 October 2010 at 2230 a Licensing Enforcement Officer witnessed Hackney Carriage Licence Number HC161, registration number WJ10 ZGE, parked in such a way that it was overhanging into the carriage way from the back of Vaughn Parade Short Rank. This was observed for 10 minutes. Then later on the same evening the same vehicle was witnessed at 2348 again overhanging the back of the same short rank. See Appendix 4. Mr Brown was subsequently sent a letter dated 25 October 2010 about these two incidents. He had also been written to previously on the 30th September 2010 about an incident which occurred on Friday 24th September 2010 at 23.56 hrs, as reported by the Police when Mr Brown's vehicle was parked in such a way that it was sticking out off the back of the Harbourside bus bay rank. See Appendix 5.
- 3.6 A letter was received from Mr Brown in response to our correspondence. See Appendix 6.
- 3.7 As such Mr Brown's case was reviewed because there was considerable doubt as to whether he had received the letter dated 30th September 2010 (not included in report), which was sent by Craig Noble, Licensing Enforcement Officer. The outcome of this review was to give Mr Brown the benefit of the doubt and to send a further final warning letter. This was sent by Steve Cox and dated 2nd November 2010. See Appendix 7.
- 3.8 Despite this benefit and considering Mr Brown's assurance that he would comply with the rules in full, on the 19 February 2011 at 0015, Hackney Carriage Number HC161, registration number WJ10 ZGE was witnessed by Licensing Enforcement Officers parked on double yellow lines to the rear of The Strand bus bay rank on the clocktower roundabout. See Appendix 8. A letter was sent to Mr Brown on the 4 March 2011 regarding this incident and requesting an explanation. See Appendix 9.
- 3.9 The above incidents are in contravention of both the Road Traffic Order and Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles Byelaws.

For more detailed information on this proposal please refer to the Supporting Information.

Frances Hughes Executive Head Community Safety

Supporting information to Report 94/2011

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 Section 61 Local Government (Miscellaneous Provisions) Act 1976 gives the Local Authority the power to suspend or revoked a Hackney Carriage Driver's Licence for 'any other reasonable cause'.
- A1.3 This report concerns Hackney Carriage Drivers queuing and parking in areas in Torbay covered by Road Traffic Orders, as well as causing an obstruction to other road users. This has resulted in complaints from The Police, other road users and members of the public, as well as the general concerns Officers have about safety. See Appendix 1. This is particularly prevalent on Torquay harbour side but applies elsewhere too.
- A1.4 This biggest area for complaints and the concerns of Officers is around the bus bays and taxi ranks on The Strand and on The Clocktower roundabout, as well as Union Street and the GPO roundabout. Officers' concerns relate to the risk to pedestrians crossing the road, or alighting from buses, where they are away from the kerbside and being hit by a moving vehicle. There are also significant concerns about taxis obstructing the highway particularly at the exit to the roundabout and being a danger to other road users. There have been 13 road traffic accidents in the past 13 months up to December 2010 on the harbourside alone, though not all related to taxis. Torbay Council as the Licensing, Highways and Parking Enforcement Authority needs to exercise a duty of care in these matters, as informal attempts to resolve the issue have been unsuccessful.
- A1.5 Although a number of different measures had been tried and three letters sent to all Hackney Carriage Drivers during 2009 (see Appendix 2), problems were not resolved and this resulted in a number of Drivers having their Drivers Licences suspended.
- A1.6 In a further attempt to address this, an Officer working party, with attendees from Parking Enforcement, Highways, Licensing, Transportation and the Police, met. It was decided at this meeting to propose moving the Taxi's ranks from The Strand, onto Torwood Street. This was put to representatives of the Hackney Carriage Drivers in early August 2010. They raised significant concerns amongst drivers therefore Officers were invited to attend a meeting of the Taxi Trade Association.
- A1.7 The outcome of that meeting is that a trial was implemented to see if the Hackney Carriage Drivers would comply with the Road Traffic Orders. To help this, significant enforcement took place as well. A letter was sent to all Hackney Carriage Drivers advising them of the trial and the enforcement that would take place both on the harbourside and elsewhere, see Appendix 3. Overall this approach worked well, though since the end of the trial and the reduction in enforcement, some drivers have returned to being less compliant. However it is important to note that the majority of drivers do comply and at this time it has been felt that to move the ranks would disadvantage those drivers, although it

does still remain an option.

A1.8 What follows is the failures of Mr Brown to comply with Road Traffic Orders, both in Torquay Town Centre and on the harbourside.

A1.9 On 15 October 2010 at 2230 a Licensing Enforcement Officer witnessed Hackney Carriage Licence Number HC161, registration number WJ10 ZGE, parked in such a way that it was overhanging into the carriage way from the back of Vaughn Parade Short Rank. This was observed for 10 minutes. Then later on the same evening the same vehicle was witnessed at 2348 again overhanging the back of the same short rank. See Appendix 4. Mr Brown was subsequently sent a letter dated 25 October 2010 about these two incidents. He had also been written to previously on the 30th September 2010 about an incident which occurred on Friday 24th September 2010 at 23.56 hrs, as reported by the Police when Mr Brown's vehicle was parked in such a way that it was sticking out off the back of the Harbourside bus bay rank. See Appendix 5.

A1.10 A letter was received From Mr Brown in response to our correspondence. See Appendix 6.

A1.11 As such Mr Brown's case was reviewed because there was considerable doubt as to whether he had received the letter dated 30th September 2010 (not included in report), which was sent by Craig Noble, Licensing Enforcement Officer. The outcome of this review was to give Mr Brown the benefit of the doubt and to send a further final warning letter. This was sent by Steve Cox and dated 2nd November 2010. See Appendix 7.

A1.12 Despite this benefit and considering Mr Brown's assurance that he would comply with the rules in full, on the 19 February 2011 at 0015, Hackney Carriage Number HC161, registration number WJ10 ZGE, was witnessed by Licensing Enforcement Officers parked on double yellow lines to the rear of The Strand bus bay rank on the clocktower roundabout. See Appendix 8. A letter was sent to Mr Brown on the 4 March 2011 regarding this incident and requesting an explanation. See Appendix 9.

A1.13 The above incidents are in contravention of both the Road Traffic Order and Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles Byelaws.

A1.14 Mr Brown responded to the letter dated 4 March 2011 by a letter dated 8 March 2011. See Appendix 10.

A1.15 Attached is a map of the location, giving the Road Traffic requirements that apply to the harbourside. See Appendix 11.

A1.16 It should be noted that the harbourside is a very busy area with many competing interests. One argument put forward by some drivers is that there is insufficient space for taxis. There is no requirement in law for Torbay Council to provide Taxi Ranks; however the Council does provide space as Taxis provide an important part of an integrated transport strategy, helping to address late night economy issues. The taxi ranks are reviewed regularly as part of the Council's unmet demand study for Hackney Carriages. If 'no waiting areas' are excluded, Taxi ranks make up 18% of the space before midnight and 26% after midnight. This

does not at this time include the new rank outside The Clocktower public house. See Appendix 12.

A1.17 A copy of Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles Byelaws is attached at Appendix 13.

A1.18 It is recommended that Mr Stone's Hackney Carriage Drivers Licence be suspended for 7 days.

A1.19 There is a right of Appeal. Any Appeal would be to the Magistrates' Court within 21 days from the date of a Notice being sent out following the decision.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 There are no significant risks if the recommendation is agreed. The potential risks to other road users and pedestrians would be reduced by agreeing the recommendation. However, there is the potential for an Appeal to the Magistrates' Court which may incur a financial cost.

A2.1.2 If the recommendation is not followed, then the risk may be greater in the long term, as the issue of ignoring the Road Traffic Orders and Byelaw may continue with the potential for further road traffic accidents or worse.

A3. Options

A3.1 The options are:

- (i) to grant the suspension
- (ii) to refuse the suspension
- (iii) to suspend for a different period of time
- (iv) to revoke the licence

A4. Summary of resource implications

A4.1 There are resource implications if there is an Appeal to the Magistrates' Court against the suspension.

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

A5.1 There are no impacts upon equalities and environmental sustainability. There are potential crime and disorder issues associated with obstruction of the highway, but this approach should address those.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation on this matter, although the drivers are aware of the issues both from their Taxi handbook, from the letters they have received and from a Taxi Trade Association meeting.

A7. Are there any implications for other Business Units?

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

Annexes

Appendix 1 Letter from Richard Brown Parking Operations Officer dated 28th January 2010

Email from the Police dated 4th Feb 2010

Briefing note from Lesley Dransfield dated 27th January 2010 and from Christine Ratcliffe Operations Manager at Stage Coach dated 28th January 2010.

Appendix 2 Letter to All Hackney Carriage Drivers dated 16th January 2009

Letter to All Hackney Carriage Drivers dated 3rd April 2009

Letter to All Hackney Carriage Drivers dated 4th December 2009

Appendix 3 Letter to All Hackney Carriage Drivers dated 31st August 2010

Appendix 4 Enforcement sheet for 15th October 2010

Appendix 5 Letter dated 25th October 2010 to Mr Brown

Appendix 6 Letter from Mr Brown received on 1st November 2010

Appendix 7 Letter dated 2nd November 2010 to Mr Brown

Appendix 8 Enforcement sheet dated 19th February 2011

Appendix 9 Letter dated 4th March 2011 to Mr Brown

Appendix 10 Letter from Mr Brown dated 8th March 2011

Appendix 11 Plan of Road Traffic Orders in place on Torquay harbour side

Appendix 12 Spreadsheet showing the percentage of Taxi Rank space on the harbour side

Appendix 13 A copy of Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles

Documents available in members' rooms

None

Background Papers:

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

None