



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

Title: **Suspension of Torbay Council issued Driver's Licence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **3 January 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** The report concerns a Licensed Driver whose Medical Certificate expired on the 12 November 2012. To date the driver has not provided an updated Medical Certificate to Torbay Council's Licensing Department.

2. Recommendation(s) for decision

2.1 It is recommend that:

1. Miss Frances Whates's Driver's Licence issued by Torbay Council be revoked.
2. However, should the Committee resolve that Miss Whates be allowed additional time to provide a Medical Certificate which meets Torbay Council's licensing requirements, then the 28 day suspension be extended until such time a signed Medical Certificate is provided to Torbay Council's Licensing Department.

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 59 Local Government (Miscellaneous Provisions) Act 1976 requires the Local Authority not to grant a drivers licence unless they are satisfied that the driver is a 'fit and proper person'.

- 3.3 Section 57 Local Government (Miscellaneous Provisions) Act 1976 allows for checks to be carried out in order to enable the Local Authority to be satisfied that the driver is a 'fit and proper person'. One of these checks is for a Medical Certificate to be signed by a medical practitioner, to the effect that the Applicant is physically fit to be a driver of a Torbay Council licensed vehicle.
- 3.4 Miss Whates's Medical Certificate expired on 12 November 2012. Miss Whates was written to on two separate occasions, the first by post prior to the expiry of the Medical Certificate advising that she needed to provide an updated Medical Certificate and the second, by post immediately on expiry of the Medical Certificate. Despite these efforts, Miss Whates has failed to provide an updated Medical Certificate to Torbay Council's Licensing Department. Therefore under the powers delegated to the Executive Head, Miss Whates was suspended for 28 days, with a letter being hand delivered to her home address. That being the address which Miss Whates gave as her home address to Torbay Council's Licensing Department.
- 3.5 Officers of the Licensing Department have also left telephone messages asking Miss Whates to contact the department advising that she must supply a Medical Certificate if she wished to continue driving a licensed vehicle, but to date no Medical Certificate has been forthcoming.
- 3.6 The recommendation of this report is to either allow Miss Whates more time to provide the required Medical Certificate or to revoke her current Driver's Licence, as the Council cannot be satisfied that she remains a 'fit and proper person' to hold such a licence without a Medical Certificate signed by a medical practitioner.

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

Frances Hughes Executive Head Community Safety

Supporting information to Report XX/2010

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 59 Local Government (Miscellaneous Provisions) Act 1976 requires the Local Authority not to grant a drivers licence unless they are satisfied that the driver is a 'fit and proper person'.
- A1.3 Section 57 Local Government (Miscellaneous Provisions) Act 1976 allows for checks to be carried out in order to enable the Local Authority to be satisfied that the driver is a 'fit and proper person'. One of these checks is for a Medical Certificate to be signed by a medical practitioner, to the effect that the Applicant is physically fit to be a driver of a Licensed Vehicle. These certificates expire at different times, dependant on the age and medical conditions of the driver.
- A1.4 Miss Whates Medical Certificate expired on 12 November 2012. Miss Whates was written to on two separate occasions, the first by post prior to the expiry of the Medical Certificate advising that she needed to provide an updated Medical Certificate and the second, by post immediately on expiry of the Medical Certificate. Despite these efforts, Miss Whates has failed to provide an updated Medical Certificate to Torbay Council's Licensing Department. See appendix 1.
- A1.5 Torbay Council's Licensing Department concluded that following the two reminder letters being sent and the fact that Officers were unable to contact Miss Whates by other means, they could no longer be satisfied that she remained fit to hold a driver's licence. Therefore, under the powers delegated to the Executive Head Community Safety, in consultation with the Chair of Licensing Committee Mr Peter Addis, Miss Whates was suspended for 28 days on 7 December 2012 and a letter to this affect was hand delivered to the address which Miss Whates gave as her home address to Torbay Council's Licensing Department. See appendix 2.
- A1.6 An Officer from the Licensing Department also left telephone messages for Miss Whates on the phone number she has given the licensing department and with her previous employer, but have not received any subsequent telephone call.
- A1.7 Miss Whates was also advised of the date and time of the Licensing Sub-Committee hearing by letter. See appendix 3.
- A1.8 There is a right of Appeal. Any Appeal would be to the Magistrates' Court within 21 days from the date of a Notice 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.

A2.1.2 If the recommendation is refused, then the risk is twofold.

- (i) Firstly, it could undermine Torbay Council's Policy on the determination of

- whether someone is fit to drive.
- (ii) Secondly a licensed driver, who may as a result of no longer being fit to drive, put passengers, pedestrians and/or other road users at risk.

A3. Options

A3.1 The options are:

- (i) to revoke the licence.
- (ii) to terminate the suspension or
- (iii) to agree the suspension for a longer period of time to allow Miss Whates an opportunity to provide Torbay Council's Licensing Department with a signed Medical Certificate.

A4. Summary of resource implications

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

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 that Torbay Council is aware of.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation on this matter.

A7. Are there any implications for other Business Units?

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

Annexes

Appendix 1 Letter to Miss Whates dated 23rd November 2012.

Appendix 2 Letter to Miss Whates dated 7th December 2012.

Appendix 3 Letter to Miss Whates dated 18th December 2012 which enclosed the Committee report.

Documents available in members' rooms

None

Background Papers:

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

None