



Minutes of the Licensing Sub-Committee

1 August 2013

-: Present :-

Councillors Addis, James and Pentney

9. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

10. Minutes

The Minutes of the meeting of the Sub-Committee held on 27 June 2013 were confirmed as a correct record and signed by the Chairman.

11. Allegation of inappropriate conduct towards Civil Enforcement Officers

Members considered a report and appendices 1 to 12, in respect of an allegation of inappropriate conduct by a Torbay Council Licensed Driver.

Oral Representations received from:

Name	Details
Senior Licensing Officer	The Senior Licensing Officer outlined the report and appendices and responded to Members questions.
Civil Enforcement Officer	The Civil Enforcement Officer outlined the incident that had occurred and responded to Members questions.
Civil Enforcement Officer	A further Civil Enforcement Officer also gave an account of the incident that he witnessed and responded to Members questions.
Respondent	The Respondent outlined his views of the incident and responded to Members questions.
Respondent's Friend	The Respondent's Friend outlined what he had witnessed during the incident and responded to Members questions.

Decision:

That Mr Nasim's Torbay Council Hackney Carriage Driver's Licence be suspended for a period of four weeks, on the ground of 'any other reasonable cause', as in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, and that this suspension shall be with immediate effect, in

accordance with Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, as it appears to Members on hearing the facts of the case that it is appropriate to do so in the interests of public safety.

Reason for Decision:

Having carefully considered all the written and oral Representations, Members resolved to suspend Mr Nasim's Hackney Carriage Driver's Licence for the following reasons:

It was accepted by Mr Nasim and subsequently agreed by Mr Fenlon, who appeared in support of Mr Nasim that Mr Nasim had parked illegally on two separate occasions during the same incident and it was that which led to the Civil Enforcement Officers returning to the location of Mr Nasim's vehicle.

Members found that the Civil Enforcement Officers had acted in accordance with Torbay Council's Parking Enforcement Policy when taking photographs of Mr Nasim's vehicle which was in contravention of the road traffic order. As such, Members dismissed the submission by Mr Nasim that the Civil Enforcement Officers were threatening and harassing him and taking unnecessary pictures for no reason.

Whilst Members had due regard to the written Representations of both Mr Fenlon and Ms Cartwright and the subsequent oral Representation by Mr Fenlon at the hearing, Members noted that neither of these witnesses by their own admission had heard what Mr Nasim said to the Civil Enforcement Officers. Therefore Members unanimously concluded that the evidence given by the Civil Enforcement Officers was a true account of the incident. This conclusion was largely founded on the photographic evidence which supported the allegation that Mr Nasim had behaved inappropriately towards the said Officers. When questioned by Members, Mr Nasim accepted that the photograph which showed his inappropriate hand gesture towards the said Officers was offensive. As such, Members resolved that Mr Nasim's conduct during this incident was offensive, inappropriate and fell well below the standards they expected of a driver licensed by Torbay Council.

Members noted that Torbay Council's (Taxi) & Private Hire Policy, at Appendix G, page 55 states that the vehicle allocation for the GPO roundabout location, in Torquay is for up to 3 vehicles. At the time of the incident, oral evidence showed that there were more than 3 vehicles at this location. Members noted that Mr Nasim had received and signed for his copy of this Policy.

In accordance with Torbay Council's Byelaw, with respect to Hackney Carriage and Private Hire Vehicles, Members noted that in accordance with point 8(b) on page 4, Mr Nasim should have proceeded to another stand which he failed to do so. By moving his vehicle off the rank in to the location he did, Mr Nasim no longer assumed or complied with the correct position offered to Hackney Carriage Drivers and their vehicles. As such, Members resolved that Mr Nasim had acted in breach of Torbay Council's Hackney Carriage (Taxi) & Private Hire Policy, point

8(b) of Torbay Council's Byelaw with respect to Hackney Carriage and Private Hire Vehicles and road traffic order.

Members further noted the appendices of the report before them which evidenced that Mr Nasim had previously received written warnings, one of which was after he had appeared before a Licensing Sub-Committee that resulted in a 7 day suspension of his Hackney Carriage Driver Licence, for parking in contravention of road traffic orders and in breach of Torbay Council's Byelaw with respect to Hackney Carriage and Private Hire Vehicles. Given that Mr Nasim appears today before Members of the same Committee, for the same offence and it is that which has led to the allegation of inappropriate conduct towards the Civil Enforcement Officers, Members resolved that they could no longer be satisfied that the continuation of these contraventions by Mr Nasim that he remained a fit and proper person to hold such a licence.

In considering revocation of Mr Nasim's Hackney Carriage Driver's Licence, Members resolved that on this occasion a longer period of suspension would act as a deterrent to Mr Nasim and hopefully serve as an assurance by him that future conduct will be maintained at a standard expected of a driver licensed by Torbay Council.

In suspending Mr Nasim's Hackney Carriage Drivers Licence with immediate effect, as in accordance with Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, Members resolved that it appeared to them in the interest of public safety to do so, as Mr Nasim's continued disregard for road traffic orders, despite previous written warnings and a suspension, placed other road users and pedestrians at a real risk of injury or even death.

In concluding, Members of the Licensing Sub-Committee recommend that Mr Nasim undertake during his period of suspension an Anger Management Course, familiarise himself with the Road Traffic Orders in Torbay, read again Torbay Council's Hackney & Private Hire Policy, as received and signed for by him, obtain and read a copy of Torbay Council's Byelaw with respect to Hackney Carriage and Private Hire Vehicles and obtain and read a copy of Torbay Council's Parking Enforcement Policy.

Chairman