



## **Minutes of the Licensing Sub-Committee**

**21 December 2017**

**-: Present :-**

Councillors Doggett, Stocks and Thomas (J)

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### **73. Election of Chairman/woman**

Councillor Thomas (J) was elected as Chairman for the meeting.

### **74. Minutes**

The Minutes of the meeting of the Sub-Committee held on 2 November 2017 and 9 November 2017 were confirmed as a correct record and signed by the Chairman.

### **75. Review of a Torbay Council Drivers' Licence**

Members considered a report that sought a review of a Torbay Council Drivers' Licence. At the hearing Members received a representation from the Licenced Driver.

#### **Decision**

That Mr Johnston's Torbay Council Driver's Licence be suspended for a period of six 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, Mr Johnston must undertake and successfully complete an anger management course and produce written evidence to that effect to Torbay Council's Licensing Department. Failure to do so will result in Mr Johnston's Torbay Council Driver's Licence being revoked with immediate effect.

Should Mr Johnston successfully complete the anger management course within a three month period from the date of the suspension and produce evidence to that effect, then the period of suspension will be reduced by a period of three months.

#### **Reasons for Decision**

Having carefully considered all the oral and written Representations, Members resolved to suspend Mr Johnston's driver's licence having unanimously voted in

their opinion that he did not remain a 'fit and proper person' to hold a Torbay Council Driver's Licence.

In coming to that decision, Members applied the test set out in Appendix A, section 1.2 at page 26 of Torbay Council's current Hackney Carriage and Private Hire Licensing Policy. In addition Members noted that the further incidents before them had occurred despite a formal written warning being given to Mr Johnston for historic complaints which were of a similar nature, the time frame and repetitious nature and number of those further incidents and that they all occurred whilst Mr Johnston was on duty as a driver licensed by Torbay Council.

Members gave careful consideration to the oral submissions put forward by Mr Johnson in respect of his personal circumstances and how this had led to his conduct, the informal support he had received from a friend and the three character references submitted by him. In balancing this with their primary duty to ensure public safety, Members resolved that they could not be satisfied that Mr Johnston would not repeat conduct which fell well below the standard reasonably expected by them of a driver licensed by Torbay Council without undertaking an anger management course. Their reasoning for this determination is that in their opinion Mr Johnston was the aggressor, his behaviour was at best discourteous but more importantly, in some of the incidents, dangerous which could easily have resulted in serious injury to members of the public and/or other road users.

Despite finding himself before a Licensing Committee, Members were seriously concerned that Mr Johnston showed little remorse or responsibility for his conduct but instead, continued to disproportionately justify his actions in respect of most incidents. This in their opinion cemented their fear that if Mr Johnston's driver's license was not suspended for a period of time so that he could undertake an anger management course which would hopefully address the unacceptable conduct he had displayed over a prolonged period of time, Mr Johnston would remain a risk to public safety.

Upon successful completion of the course, Members hoped that Mr Johnston would be able to return to work as a licensed driver and be capable of fulfilling the standards reasonably expected by them of a driver licensed by Torbay Council.

In concluding, Members gave careful consideration to revoking Mr Johnston's driver's licence but resolved in this instance that a suspension with a requirement to undertake an anger management course was appropriate and proportionate, and gave Mr Johnston the opportunity to demonstrate the he was someone who could become fit and proper to hold such a licence.

In coming to the decision that Mr Johnston's driver's licence should be suspended with immediate effect, as in accordance with section 61 (2B) of the Local Government Miscellaneous Provisions Act 1976, Members resolved that despite being given a formal written warning by the Licensing Authority for similar conduct, Mr Johnston's unacceptable conduct had continued and if they did not impose the suspension with immediate effect as they have, there was in their opinion a real risk to the safety of the public and other road users.

**76. Consideration of an Application for a New Dual Hackney Carriage and Private Hire Drivers' Licence**

Members considered a report that set out an application for a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence. Members were advised that where the applicant does not meet with the requirements set out in the current Hackney Carriage and Private Hire Licensing Policy, by virtue of holding a current unspent conviction and to determine whether or not the Applicant is to be regarded as a 'fit and proper' person to hold such a licence.

**Decision**

That the application for a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence be refused.

**Reason for Decision**

Having carefully considered the application, Members resolved to refuse the application as they could not be satisfied that reasons put forward by the Applicant were sufficient for them to depart from its Policy which clearly stated that 'The Licensing Authority will not normally consider an application until a period of at least three years free from convictions has elapsed'.

In coming to their decision, Members gave careful consideration to the Applicants request and that of their primary duty to ensure that the public were protected. In doing so, Members noted that the time elapsed from conviction was only eight months, the offending period from the date of applying for the benefit to the authority detecting that the application had been fraudulent, was two years and that the Applicant had pleaded guilty at Court, therefore recognising that her actions were fraudulent and wrong.

**77. Torquay Squash and Leisure Club, 78 Barton Road, Torquay TQ2 7NS**

Members considered a report on an application for a Variation to a Premises Licence in respect of Torquay Squash and Leisure Club, 78 Barton Road, Torquay.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation suggesting conditions should the application be approved.	24 November 2017
Public Protection	Representation suggesting conditions should the application be approved.	27 November 2017

Oral Representations received from:

Name	Details
Applicant's Representative	The Applicant's Representative outlined the application and responded to Members questions.

### Decision

That the application for a Variation to a Premises Licence in respect of Torquay Squash and Leisure Club, 78 Barton Road, Torquay be granted as applied for, subject to the following conditions:

- 1) The premises will continue to operate as a members club and that non-members shall be permitted to attend the premises for events, and on other occasions to be determined by the management and/or Designated Premises Supervisor,
- 2) Live music indoors shall cease at 23.00 hours on Friday and Saturday nights, with New Years Eve remaining as applied for,
- 3) Live and recorded music outside must cease at 23.00 hours,
- 4) No glass bottles shall be emptied in to the premises outside bins between 21.00 hours and 08.00 hours; and
- 5) The premises windows must be kept shut at all times during the playing of amplified entertainment.

### Reasons for Decision

Having carefully considered all the written and oral representations, Members resolved to grant the licence, as they were satisfied on the evidence before them that to do so, would not undermine the Licensing Objectives.

In coming to that decision, Members noted that the Applicant had consulted with the Responsible Authorities before submitting their application and in turn this had resulted in appropriate conditions being submitted in to the operating schedule and the Responsible Authorities supporting the application, subject to five additional conditions which the Applicant had agreed to.

In concluding, Members further noted that there were no Representations from members of the public.

### **78. The Cabin, 13 Lucius Street, Torquay TQ2 5UW**

Members considered a report on an application for a Premises Licence in respect of The Cabin, 13 Lucius Street, Torquay.

Written Representations received from:

Name	Details	Date of Representation
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Crime and Disorder'.	15 November 2017
Member of the Public	Representation in support of the application.	25 November 2017
Member of the Public	Representation in support of the application.	28 November 2017
Member of the Public	Representation in support of the application.	22 November 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Crime and Disorder'.	14 November 2017

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined their application and responded to Members questions.

### **Decision**

That the application for a Premises Licence in respect of The Cabin, 13 Lucius Street, Torquay be granted, as applied for.

### **Reason for Decision**

Having carefully considered all the written and oral Representations, Members resolved to grant the application, as they were satisfied that to do so would not undermine the Licensing Objectives.

In coming to their decision, Members had regard to the concerns raised by members of the public but were reassured by the Applicants apparent professionalism, social and environmental conscience, involvement in the community and subsequent knowledge of specific individuals who may cause a nuisance and a good understanding of the potential nuisance street drinkers can cause.

Members noted the comprehensive and appropriate conditions submitted in the Applicants operating schedule which in their opinion, should alleviate the concerns raised by members of the public.

Members further noted the Applicants commitment to work with the Responsible Authorities, as demonstrated through her early consultation with these Authorities, which has resulted in the absence of any Representations from the Police or Public Protection.

In concluding, Members noted the layout of the store and the proposed location where alcohol will be displayed and were satisfied that staff would be able to effectively manage the sale of alcohol in a responsible manner.

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Chairman/woman