



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

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

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **23 August 2012**

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** The report concerns a Hackney Carriage Driver whose Medical Certificate expired on the 9 July 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. Mr Harry Orwell's Driver's Licence issued by Torbay Council be revoked.
2. However, should the Committee resolve that Mr Orwell 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 Mr Orwell's Medical Certificate expired on 9 July 2012. Mr Orwell was written to on two separate occasions, the first by post prior to the expiry of the Medical Certificate advising that he needed to provide an updated Medical Certificate and the second, by post immediately on expiry of the Medical Certificate. Despite these efforts, Mr Orwell has failed to provide an updated Medical Certificate to Torbay Council's Licensing Department. Therefore under the powers delegated to the Executive Head, Mr Orwell was suspended for 28 days, with a letter being hand delivered to his home address. That being the address which Mr Orwell gave as his home address to Torbay Council's Licensing Department.
- 3.5 Officers of the Licensing Department have spoken to Mr Orwell on the telephone on the day of suspension, 26 July 2012 advising that he must supply a Medical Certificate if he 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 Mr Orwell more time to provide the required Medical Certificate or to revoke his current Driver's Licence, as the Council cannot be satisfied that he 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 Hackney Carriage Vehicle. These certificates expire at different times, dependant on the age and medical conditions of the driver.
- A1.4 Mr Orwell's Medical Certificate expired on 9 July 2012. Mr Orwell was written to on two separate occasions, the first by post prior to the expiry of the Medical Certificate advising that he needed to provide an updated Medical Certificate and the second, by post immediately on expiry of the Medical Certificate. Despite these efforts, Mr Orwell 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 Mr Orwell by other means, they could no longer be satisfied that he 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, Mr Orwell was suspended for 28 days on 26 July 2012 and a letter to this affect was hand delivered to the address which Mr Orwell gave as his home address to Torbay Council's Licensing Department. See appendix 2.
- A1.6 An Officer from the Licensing Department spoke to the holder of the vehicle plate which Mr Orwell drives on the 26 July 2012 and advised him of this suspension. The holder of the vehicle plate must have subsequently contacted Mr Orwell, as Mr Orwell contacted the Licensing Department later the same day. An Officer spoke to Mr Orwell on the telephone, advising that he must supply a Medical Certificate if he wished to continue driving a licensed vehicle, but to date no Medical Certificate has been forthcoming. During the telephone conversation Mr Orwell implied he was no longer living at the current address held by Torbay Council's Licensing Department but when asked, he was not prepared to give an alternative address to the Officer to allow future correspondence to be sent to him. He was made aware that the suspension letter was hand delivered to that address.
- A1.7 Officers of Torbay Council still have no contact address for Mr Orwell, so they have left a message for Mr Orwell that he can either supply the Council with an email address for receipt of the report or collect it from behind reception from Tuesday 14th August 2012 onwards. He was also advised of the date and time of the Licensing Sub-Committee hearing. See appendix 3.

A1.8 It is a requirement that licensed drivers advise Torbay Council of any change of address within 7 days. Mr Orwell has failed to do this even after a request to do so. Torbay Council has, however, been advised that Mr Orwell has return the vehicle plate to the plate owner, so the assumption is that he no longer intends to drive.

A1.9 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 Mr Orwell 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 Mr Harry Orwell dated 11th July 2012.

Appendix 2 Letter to Mr Harry Orwell dated 26th July 2012.

Appendix 3 Letter to Mr Harry Orwell dated 13th August 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