

Wednesday, 3 November 2021

LICENSING SUB-COMMITTEE

A meeting of **Licensing Sub-Committee** will be held on

Thursday, 11 November 2021

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Atiya-Alla

Councillor Ellery

Councillor Mills

Together Torbay will thrive

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent.
5. **Review of Torbay Council issued Driving Licence** (Pages 4 - 35)
To consider a report on the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence.
6. **Review of Torbay Council issued Driving Licence** (Pages 36 - 44)
To consider a report on the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence.

Meeting Attendance

Whilst national Covid-19 restrictions were lifted on 19 July 2021, Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting please contact us to confirm arrangements for your attendance.

TORBAY COUNCIL

Report No:		Public Agenda Item:	YES
Title:	Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence		
Wards Affected:	All		
To:	Licensing Sub-Committee	On:	11th November 2021
Key Decision:	No		
Change to Budget:	No	Change to Policy Framework:	No
Contact Officer:	Steve Cox		
☎ Telephone:	01803 208025		
✉ E.mail:	Steve.cox@torbay.gov.uk		

1. What we are trying to achieve

- 1.1 This report asks Members to consider whether the holder of a Torbay Council issued Driver's licence remains a 'fit and proper person to hold such a licence' following the criteria as set out in the current Hackney Carriage and Private Hire Licensing Policy 2019 to 2022.

2. Recommendation(s) for decision

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony. Therefore, there is no recommendation. The options available to Members, however, are highlighted in paragraph **A3.1 of Annex 1** to this report.

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 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, in conjunction with section 46 of the Town Police Clauses Act 1847 make provision for the licensing of drivers and state that a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.
- 3.3 Section 61 Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew the licence of a driver of

a hackney carriage or a private hire vehicle on any of the following grounds:-

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) any other reasonable cause.

- 3.4 This report follows an anonymous tip off that Mr Green's vehicle was uninsured and that his MOT had expired. Investigations confirmed that this was the case, and the vehicle was immediately suspended, though both requirements were met later that day.
- 3.5 Subsequently, the Licensing Authority became aware that two sets of vehicle insurance had been cancelled in respect of Mr Green's vehicle. His first insurance was cancelled due to a payment not being made on the 3rd June 2021. It appears that Mr Green was informed of this and claims he stopped driving until new insurance was taken out with a second company on the 21st June 2021. This also was cancelled, but on what date, it is unclear. However, it is likely to have been shortly after it was taken out, as the cancellation related to missing documents. During this period Mr Green undertook approximately 1800 driving jobs.
- 3.6 In light of these facts, it is for the Licensing Sub-Committee to consider whether Mr Green remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire drivers' licence.
- 3.7 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

**Steve Cox
Environmental Health Manager (Commercial)**

Annex 1 - Supporting information

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 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.
- A1.3 Section 61 Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-
- (a) that he has since the grant of the licence—
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.
- A1.4 The legislation does not set out the criteria as to what is considered 'fit and proper', therefore leaving it for the Licensing Authority to determine whether a driver or an applicant is indeed 'fit and proper' to hold such a licence. In Torbay, these matters are covered within its Hackney Carriage & Private Hire Licensing Policy 2019-22, which states;

In setting out its Policy, the Licensing Authority seeks to promote the following objectives:

- *The safety and health of drivers and the public;*
- *Vehicle safety, comfort and access;*
- *To prevent crime and disorder and to protect the public;*
- *To encourage environmental sustainability.*

Public safety is paramount, and this Licensing Authority seeks to ensure through its licensing regime that all taxi and private hire vehicles are fit for purpose and that their drivers and/or operators are fit and proper persons.

- A1.5 Torbay Council's Hackney Carriage & Private Hire Licensing Policy goes on to say;

1 General Policy

1.1 *Each case will be decided on its own merits.*

1.2 *The Licensing Authority has a duty to ensure, so far as possible, that applicants are 'fit and proper' persons to hold licences and in the absence of a judicially approved definition of "fit and proper", the Licensing Authority use the*

test of:

“Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone”

The wording of this test originates from Button, J. T. H. (1999), Taxis – Licensing Law and Practice, Butterworths, London.

1.3 The overriding consideration is the safety of the public. The Licensing Authority has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit. An aspect of this is the extent to which previous convictions, including but not limited to convictions of dishonesty, sexual offences, traffic offences, violence and drugs, indicate that a person is not a ‘fit and proper’ person and would not take advantage of passengers or abuse or assault them.

- A1.6 On the 5th October 2021 the Licensing Office was contacted anonymously about a vehicle, Registration number (withheld), which was not taxed or insured. Shaun Rackley, Licensing Officer, checked the online records, which confirm this to be the case and immediately suspended the vehicle, following a telephone conversation with Mr Green, the vehicle proprietor and licensed driver. See Appendix 1.
- A1.7 Mr Green subsequently contacted Shaun Rackley by email on the same day, to confirm that the vehicle was now taxed and an explanation about why it was not insured. See Appendix 2.
- A1.8 A further email, again on the 5th October 2021 from Shaun Rackley to Mr Green reconfirmed that the vehicle remained suspended until a new insurance document was submitted. See Appendix 3.
- A1.9 Mr Green subsequently contacted Shaun Rackley by email again on the 5th October 2021, to present a valid Insurance Certificate. See Appendix 4. Shaun Rackley arranged for the vehicle suspension to be lifted.
- A1.10 On the 6th October 2021, Shaun Rackley wrote to Mr Green seeking an explanation to why his vehicle had not been insured nor had been car taxed. See Appendix 5.
- A1.11 On the 6th October 2021, Shaun Rackley emailed the respective Insurer, seeking confirmation of when Mr Green’s policy expired. They emailed back on the 7th October 2021 to confirm it was cancelled on the 3rd June 2021, due to a failure to pay the balance. See Appendix 6.
- A1.12 Further emails were received from Mr Green on the 8th, 9th and 12th October 2021, see Appendices 7 for the 9th October 2021 email and Appendix 8 for the 8th and 12th October 2021 emails. The last of these includes a certificate of insurance for 21st June 2021, which was also subsequently cancelled. In the email on the 12th October 2021 Mr Green advises that he did not drive between being informed by the Insurer that the original policy was cancelled and taking out this new policy

with another Insurer on the 21st June 2021. However, the explanation then continues to advise that this new insurance policy was subsequently cancelled too, due to some paperwork not being submitted. This wasn't corrected until the 5th October 2021.

A1.13 An email was sent to Mr Green on the 20th October 2021, by Steve Cox, seeking clarification of the points above and seeking any further explanations. A reply was received dated 31st October 2021. See Appendix 9

A1.14 On the 7th October 2021, Shaun Rackley received a reply, from a Taxi company who provided jobs to Mr Green, to his enquiry on the 5th October 2021, asking about how many jobs Mr Green had undertaken during this period. They listed approximately 1800 journeys undertaken by Mr Green. I attach the email, though not the 4 CVS files which cover the journeys for the months June-September 2021, inclusive and which contain significant amounts of personal data. See Appendix 10.

A1.15 Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2019-22 says;

15.11 Where the Applicant has made an application for the grant or renewal of a vehicle licence, the Applicant must declare and supply information in relation to the insurance and MOT of that vehicle. If at any point during the term of the licence it is found that insurance and/or the MOT is not in place or lapsed, the Licensing Authority will suspend the vehicle licence immediately until a valid insurance document and/or the MOT is submitted to the Licensing Authority. The Licensing Authority may decide to take the matter further upon investigation, which may include revocation of that licence.

A1.16 Members are requested to consider whether Mr Green remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire Drivers' licence, taking into account that his MOT had expired, and his vehicle insurance was cancelled twice, and that he undertook approximately 1800 fares throughout this period.

A1.17 There is a right of Appeal to the Magistrates' Court against the Licensing Sub-Committee decision. Such an appeal must be lodged 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 two risks. The first risk to be considered is whether Mr Green presents a public safety risk to the general public should he continue to hold a licence to drive a Hackney Carriage or Private Hire vehicle.

A2.1.2 The second risk relates to the potential for an appeal should Mr Green's licence be suspended or revoked and/or have additional conditions imposed.

A3. Options

A3.1 The options are:

- (i) To do nothing, if satisfied that Mr Green remains a 'fit and proper' person to drive a Hackney Carriage or Private Hire Vehicle,
- (ii) To give a Written Warning,
- (iii) To suspend or revoke Mr Green's Torbay Council issued Driver's Licence on the grounds that he is no longer considered to be a 'fit and proper' person to hold such a licence, though any temporary suspension must relate to an action that is time based.

A4. Summary of resource implications

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

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

A5.1 There are no environmental sustainability issues, equalities or crime and disorder issues other than as outlines in this report.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation on this matter, as there is no requirement for the Licensing Sub-Committee to consult the public in this regard.

A7. Are there any implications for other Business Units?

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

Documents available in members' rooms

None

Appendices

- | | |
|------------|--|
| Appendix 1 | Email from Shaun Rackley dated 5 th October 2021 to Mr Green suspending his vehicle licence |
| Appendix 2 | Emailed from Mr Green dated 5 th October 2021 confirming car now taxed, along with screen shot of confirmation. |
| Appendix 3 | Email from Shaun Rackley dated 5 th October 2021 to Mr Green, following up that Insurance Documents still needed. |
| Appendix 4 | Email from Mr Green dated 5 th October 2021 providing Insurance certificate |
| Appendix 5 | Letter to Mr Green dated 6 th October 2021, seeking an explanation for committee to consider. |
| Appendix 6 | An email dated 7 th October 2021 from Riviera Insurance confirming the cancellation of the Insurance Policy. |
| Appendix 7 | Email from Mr Green dated 9 th October 2021 providing further information |

- Appendix 8 Emails from Mr Green dated 8th & 12th October 2021 providing further information, including an additional Insurance Certificate from June 2021
- Appendix 9 An email from Steve Cox to Mr Green dated 20th October seeking further clarification.
- Appendix 10 An email from Price First Taxis confirming the journeys undertaken during June to September 2021.

Background Papers:

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

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2019 to 2022

Edwards, Jonathon

From: Rackley, Shaun
Sent: 05 October 2021 14:56
To: [REDACTED]
Subject: [REDACTED] insurance and road tax issue
Importance: High

Hi Dale,

As discussed, please find below screen shots taken from today of the status in relation to your Insurance and Road Tax for Private Hire 038.

Unfortunately until this matter is resolved the vehicle is suspended with immediate effect under section 60 (c) of the Local Government (Miscellaneous Provisions) Act 1976 and will not be re-instated until proof of both have been sent to me. Unfortunately I am seeking further information from your employer Price First Taxis to determine if you have been working and carrying passengers whilst you have not had insurance and road tax in place.

I look forward to hearing from you in due course.

Regards

Shaun



askMID.com
STAY INSURED. STAY LEGAL



Home

Check if your vehicle is on the **Motor Insurance Database** today...



NO. This vehicle is **NOT** showing as insured on the Motor Insurance Database today

WARNING

If your vehicle details are NOT on the Motor Insurance Database you are at risk of prosecution. You may also be fined and have your vehicle impounded, if proof of insurance is not provided.

WHAT TO DO NEXT

- > If you have entered the wrong details, please check and re-enter again.
- > If you believe the vehicle is insured but not showing, please contact your insurance provider to ensure policy details are submitted to MID.
- > If you do not have vehicle insurance (or have declared your vehicle "off the road"), you must purchase a valid motor insurance policy.
- > If you do not use the vehicle, you should consider making **SORN** (Statutory Off Road Notification).
- > If you have declared your vehicle as "off the road", you can check your vehicle details on the DVLA's information service.



X Untaxed
 Tax due:
 1 June 2021



▶ [Incorrect tax status?](#)

▶ [Incorrect MOT](#)

! If you've just bought this vehicle the tax or SORN doesn't come with it

Vehicle Details

Vehicle make	SEAT
Date of first registration	April 2019
Year of manufacture	2019
Cylinder capacity	1500 cc

TORBAY COUNCIL

Shaun Rackley | Licensing Officer |
 Town Hall, Castle Circus, Torquay, TQ1 3DR
 01803 208025 | shaun.rackley@torbay.gov.uk

www.torbay.gov.uk
[Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

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Item	Description	Quantity	Unit Price	Total
1
2
3
4
5
6
7
8
9
10

Edwards, Jonathon

From: Dale Green [REDACTED]
Sent: 05 October 2021 16:07
To: Rackley, Shaun
Subject: Re: [REDACTED] - insurance and road tax issue
Attachments: Screenshot_20211005-150507_Chrome.jpg

Hi Shaun. screen shot attached of car tax.

I have just got off phone with my insurance company, the problem was down to me sending 5 documents out of 6 which was the copy of my no claims bonus that I haven't received from previous insurer. I just spoke to Riviera insurance and there contacting the insurer requesting they e-mail a copy over to Riviera and they will e-mail it straight to me so I can send it to my insurance company and rectify the issue. I apologise for this to occur and will rectify as soon as possible and I will email you the insurance policy straight away. Thank you, Dale

From: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Sent: 05 October 2021 13:55
To: [REDACTED]
Subject: [REDACTED] - insurance and road tax issue

Hi Dale,

As discussed, please find below screen shots taken from today of the status in relation to your Insurance and Road Tax for Private Hire 038.

Unfortunately until this matter is resolved the vehicle is suspended with immediate effect under section 60 (c) of the Local Government (Miscellaneous Provisions) Act 1976 and will not be re-instated until proof of both have been sent to me. Unfortunately I am seeking further information from your employer Price First Taxis to determine if you have been working and carrying passengers whilst you have not had insurance and road tax in place.

I look forward to hearing from you in due course.

Regards

Shaun

**✓ Application
complete**

**Your application reference:
9216-5194-2564-6353**

Payment summary

Item	Price
6 month vehicle tax for vehicle registration [REDACTED] valid from 01	£85.25

Cox, Steve

From: Rackley, Shaun
Sent: 05 October 2021 16:25
To: 'Dale Green'
Subject: [REDACTED] - insurance and road tax issue

Categories: Egress Switch: Unprotected

Hi Dale,

Once you have received the insurance Policy, please forward it to me. Until such time, the vehicle is still suspended and you need to remove the licence plate from the rear immediately as advised on the phone. This plate must be returned to the Town Hall immediately and once the issue with your insurance is resolved I can lift the suspension and return your licence plate.

Regards

Shaun

TORBAY COUNCIL

Shaun Rackley | Licensing Officer |
Town Hall, Castle Circus, Torquay, TQ1 3DR
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From: Dale Green [REDACTED]
Sent: 05 October 2021 16:07
To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: Re: [REDACTED] insurance and road tax issue

Hi Shaun, screen shot attached of car tax.

I hav just got off phone with my insurance company, the problem was down to me sending 5 documents out of 6 which was the copy of my no claims bonus that i haven't received from previous insurer. iv just spoken to Riviera insurance and there contacting the insurer requesting they e-mail a copy over to Riviera and they will e mail it straight to me so i can send it to my insurance company and rectify the issue. i apologise for this to occur and will rectified as soon as possible and i will email you the insurance policy straight away. thank you, dale

From: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Sent: 05 October 2021 13:55
To: [REDACTED]
Subject: [REDACTED] insurance and road tax issue

Hi Dale,

As discussed, please find below screen shots taken from today of the status in relation to your Insurance and Road Tax for Private Hire 038.

Unfortunately until this matter is resolved the vehicle is suspended with immediate effect under section 60 (c) of the Local Government (Miscellaneous Provisions) Act 1976 and will not be re-instated until proof of

Cox, Steve

From: Dale Green [REDACTED]
Sent: 05 October 2021 16:43
To: Rackley, Shaun
Subject: Re: [REDACTED] - insurance and road tax issue
Attachments: Screenshot_20211005-164200_Drive.jpg

Here iv attached a copy of insurance policy

From: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Sent: 05 October 2021 15:24
To: Dale Green [REDACTED]
Subject: RE: [REDACTED] - insurance and road tax issue

Hi Dale,

Once you have received the insurance Policy, please forward it to me. Until such time, the vehicle is still suspended and you need to remove the licence plate from the rear immediately as advised on the phone. This plate must be returned to the Town Hall immediately and once the issue with your insurance is resolved I can lift the suspension and return your licence plate.

Regards

Shaun

TORBAY COUNCIL

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Subject: Re: [REDACTED] - insurance and road tax issue

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I hav just got off phone with my insurance company,the problem was down to me sending 5 documents out of 6 which was the copy of my no claims bonus that i haven't received from previous insurer.iv just spoken to Riviera insurance and there contacting the insurer requesting they e-mail a copy over to Riviera and they will e mail it straight to me so i can send it to my insurance company and rectify the issue.i apologise for this to occur and will rectified as soon as possible and i will email you the insurance policy straight away.thank you,dale

From: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Sent: 05 October 2021 13:55
To: [REDACTED]
Subject: [REDACTED] - insurance and road tax issue

CERTIFICATE OF MOTOR INSURANCE



Certificate No. M47550000066

1. Registration Number of Vehicle. [Redacted]

£100/£0

2. Policyholder. Mr Dale Green

3. Effective date of the commencement of insurance. 16:32 Hours 5th October 2021

for the purpose of the relevant law.

4. Date of the expiry of insurance. 12:00 Hours 5th October 2022

5. Persons or classes of persons entitled to drive. The Policyholder Only

Provided that the person driving holds a licence to drive the vehicle or has held and is not disqualified for or prohibited by law from holding or obtaining such a licence

6. Limitations as to use.

Use for social domestic and pleasure purposes and for the carriage of passengers, the delivery of food, non-toxic and non-hazardous goods and prescription drugs for hire or reward by prior arrangement to the commencement of the period of hire.
Excluding standing or plying for hire, racing, pacemaking, speed testing, competitions, rallies or trials, track days or use for any purpose in connection with the Motor Trade.

Exclusions:

I hereby certify that the insurance to which this certificate relates satisfies the requirements of the relevant law applicable in Great Britain, Northern Ireland, The Isle of Man, The Island of Guernsey, the Island of Jersey and the Island of Alderney.

Gary Humphreys
For authorised insurer
Markerstudy Insurance Company Ltd and/or its co-insurers
Registered in Gibraltar (Reg No. 78788)
Registered Office: B46-848 Europort, Gibraltar.

Markerstudy Insurance Company Limited is regulated by the Gibraltar Financial Services Commission and subject to a limited regulation by the Financial Conduct Authority and the Prudential Regulation Authority in respect of underwriting insurance business in the

Please reply to: Shaun Rackley

Licensing,
Town Hall, Castle Circus,
Torquay,
TQ1 3DR

My ref: SRU/266206

Your ref:

Telephone: 01803 208025

E-mail: Shaun.rackley@torbay.gov.uk

Website: www.torbay.gov.uk

Mr D Green

(address removed)

Date: 6th October 2021

Dear Mr Green,

**Re: No vehicle insurance and road tax
Vehicle registration (removed), Licence PH038**

I am writing to you following our discussion yesterday regarding the above vehicle for which you hold the vehicle proprietor's licence. Upon investigating a complaint in relation to your vehicle, a series of checks were carried out on the DVLA's database where it was found the vehicle had no insurance and road tax in place and was still licensed as a Torbay Council Private Hire vehicle.

The vehicle was immediately suspended under the Local Government (Miscellaneous Provisions) Act 1976, Section 60 (C) and will remain in place until the vehicle is showing as insured and taxed on the correct vehicle databases.

On checking the relevant databases on the 5th October 2021, the road tax had expired on the 1st June 2021 and the vehicle was showing as not insured. I am currently investigating when the insurance had expired with the relevant insurance companies/brokers as when you made an application to renew the licence on the 29th April 2021, you provided us with an insurance policy which started on the 1st May 2021 and expired on the 30th April 2022.

As this matter is serious, I have no other option but to refer this matter to Torbay Council's Licensing Committee to determine if you remain a fit and proper person to hold a Torbay Council Licensed drivers badge.

Although the offence is in relation to the vehicle proprietors licence, you, as a licensed professional driver with this Local Authority, who is responsible for the safe carrying of passengers have knowingly been using the above vehicle without road tax and insurance in place, which is not only a road traffic offence, but is in breach of Torbay Council's taxi Policy .

A date for this committee has not yet been set, however, in order for me to put any mitigating circumstances within the committee report, please can you respond to me as soon as possible and by no

If you require this in a different format or
language, please contact me.

later than the **15th October 2021**. This is your opportunity to demonstrate why and how the vehicle appeared on the databases as not having road tax and vehicle insurance.

In addition, I have requested detailed operator details in relation to PH038 from your employer to ascertain if the vehicle has been used to carry fare paying passengers from the dates of 1st June 2021 until the 5th October 2021.

I look forward to hearing from you with the requested information in due course which will assist me in producing the committee report.

Should you need to contact us please quote the reference number above.

Yours sincerely

Shaun Rackley
Licensing Officer

Appeals – Section 77 Local Government (Miscellaneous Provisions) Act 1976 and Public Health Act 1936 Sections 300-302

Section 77 Appeals.

(1) Sections 300 to 302 of the Act of 1936, which relate to appeals, shall have effect as if this Part of this Act were part of that Act.

(2) If any requirement, refusal or other decision of a district council against which a right of appeal is conferred by this Act—

(a) involves the execution of any work or the taking of any action; or

(b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision;

then, until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution—

(i) no proceedings shall be taken in respect of any failure to execute the work, or take the action; and

(ii) that person may carry on that business.

(3) Subsection (2) of this section does not apply in relation to a decision under subsection (1) of section 61 of this Act which has immediate effect in accordance with subsection (2B) of that section.

(4) On an appeal under this Part of this Act or an appeal under section 302 of the Act of 1936 as applied by this section, the court is not entitled to entertain any question as to whether—

(a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom; or

(b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.

S300 Appeals and applications to courts of summary jurisdiction

(1) Where any enactment in this Act provides—

(a) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of a council; or

(b) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction,

the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the council's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(3) In any case where such an appeal lies, the document notifying to the person concerned the decision of the council in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

S301 Appeals to quarter sessions against decisions of justices.

Subject as hereinafter provided, where a person aggrieved by any order, determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to [the Crown Court] he may appeal to such a court:

Provided that nothing in this section shall be construed as conferring a right of appeal from the decision of a court of summary jurisdiction in any case if each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by such a court.

S302 Effect of decision of court upon an appeal.

Where upon an appeal under this Act a court varies or reverses any decision of a council, it shall be the duty of the council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

Cox, Steve

From: Admin - Riviera <Admin@rivierainsurance.co.uk>
Sent: 06 October 2021 10:36
To: Rackley, Shaun
Subject: RE: [REDACTED] - Insurance investigation

Hi Shaun,

Thanks for your email. Having checked our records I can confirm that Mr Green's policy [REDACTED] as cancelled on the 3rd of June 2021 due to an outstanding unpaid balance.

I have checked our records using the details provided for his new Markerstudy policy and can confirm he is no longer insured with us.

Please let us know if you need anything further.

Kind regards,

Sam Stebbens

Broker Support and Customer Service Advisor

Riviera Insurance

234-236 Union Street, TQ2 5QS

01803 659113

Sam.Stebbens@rivierainsurance.co.uk

www.rivierainsurance.co.uk



RIVIERA
INSURANCE SERVICES



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Telephone calls may be monitored or recorded.

Cox, Steve

From: Dale Green [REDACTED]
Sent: 08 October 2021 11:35
To: Rackley, Shaun
Subject: Re: Vehicle suspension

Hi Shaun.yes i will go through and straighten it up abit.my insurance broker is qouteline and they told me it was cancelled because of the 2 documents that i missed when i sent the requested documents in.they record the calls and i could request the conversation to confirm.if your referring to riviera insurance if i remember correctly im sure i remember i renewed my policy with riviera and the qoute i was given was cheaper than when the payments came out my account.

Have u a direct number i could call u on please to explain id find it easier than typing you a essay.thanks dale

From: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Sent: 08 October 2021 07:03
To: Dale Green [REDACTED]
Subject: RE: Vehicle suspension

Morning Dale,

As I haven't heard back from you regarding my email yesterday to confirm if this was your final submission for Licensing Committee, I thought it would be beneficial for me to mention something that you may wish to address in your final mitigating circumstances.

Whilst investigating the matter of no insurance, your insurance broker confirmed that the insurance was cancelled on the 3rd June 2021 due to non-payment.

Please as before email me with your final submission before the 15th October.

Thanks

Shaun

TORBAY COUNCIL

Shaun Rackley | Licensing Officer |
Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 208025 | shaun.rackley@torbay.gov.uk

www.torbay.gov.uk
[Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

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From: Dale Green [REDACTED]
Sent: 07 October 2021 13:50
To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: Re: Vehicle suspension

Hi Shaun.thanks for letting me no its been lifted and i can return back to work.

When contacting my insurance company after receiving your phone call regarding my vehicle showing un insured i was informed the policy had been cancelled due to reciving list of requested documents but i missed sending a

Edwards, Jonathon

From: Dale Green [REDACTED]
Sent: 12 October 2021 13:17
To: Rackley, Shaun
Subject: Re: Vehicle suspension
Attachments: Screenshot_20211012-124412_Drive.jpg

Hi Shaun, did you receive my reply e mails i sent last Thursday and friday?? as iv not heard from you. iv attached a copy of certificate of the insurance policy i got in june after my policy was cancelled with riviera. i did make rob aware that it had been cancelled so obviously i couldn't work until i presented our office with a copy of the new policy which i did and was then able to get bk to work. it was with this policy that i send all requested documents bar 2 as i hadnt recived a copy of prof my no claims bonus and was awaiting a copy to provide. after your phone call making me aware of my vehicle showing as no insurance i contacted my insurer straight away to find out wat the issue was and i was told it had been cancelled due to not receiving 2 of the documents. So instantly started a new policy and just had to provide the 2 documents that they didn't hav from policy that had been cancelled

From: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Sent: 08 October 2021 07:03
To: Dale Green [REDACTED]
Subject: RE: Vehicle suspension

Morning Dale,

As I haven't heard back from you regarding my email yesterday to confirm if this was your final submission for Licensing Committee, I thought it would be beneficial for me to mention something that you may wish to address in your final mitigating circumstances.

Whilst investigating the matter of no insurance, your insurance broker confirmed that the insurance was cancelled on the 3rd June 2021 due to non-payment.

Please as before email me with your final submission before the 15th October.

Thanks

Shaun

TORBAY COUNCIL

Shaun Rackley | Licensing Officer |
Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 208025 | shaun.rackley@torbay.gov.uk

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From: Dale Green [REDACTED]
Sent: 07 October 2021 13:50
To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: Re: Vehicle suspension

Hi Shaun. thanks for letting me no its been lifted and i can return back to work.

When contacting my insurance company after receiving your phone call regarding my vehicle showing un insured i was informed the policy had been cancelled due to receiving list of requested documents but i missed sending a screenshot with the check code and copy of my no claims from my previous insurer as i was waiting to receive a copy to provide my new insurance company and must of simply slipped my mind after not receiving it in post. I can provide u with a screenshot of the e mail i sent yesterday with the 2 missing documents to rectify the issue. And then able to start a new policy.

I Was unaware that i didn't have insurance.

I was stopped by the police few weeks ago right near paignton fire station in early hours as 2 officers in the road dealing with a 4x4 black Porsche .

They said my car was coming up uninsured so i showed him it was recent policy and passed him my phone with the insurance certificate and documents and waited few mins while he was on radio checking,he then said ok its fine u can go and passed me my phone also said he will let(used initials) no so i wont get stopped again and happy seeing my documents and off i went.i didn't think there was a issue once he had my insurance details and checked everything on radio and was happy i could go,i assumed all was ok and never thought anything of it.i was unaware of the issue untill your phone call and got straight on the phone to my insurance to find out wat was going on.

I take responsibility for missing there e mail regarding cancelling my policy due to not receiving the last 2 documents.

I split up with my ex parter through lockdown and as perthetic as its sounds she used to deal with my e mails and paperwork side of things because e mailing is not something iv ever used regularly.after separating i just forget to regularly go through and check my e mails and landed myself in this situation.

Im really sorry about all this and im praying i wont lose my taxi licence

From: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>

Sent: 07 October 2021 08:09

To: Dale Green [REDACTED]

Subject: Vehicle suspension

Morning Dale,

I have this morning checked the vehicle insurance database and the policy you have now submitted and can confirm that I have lifted the suspension. The licence plate can be returned to the vehicle and it can be used as a Private Hire again.

You will shortly receive a letter in the post requesting your mitigating circumstances around the insurance and road tax as I am referring you to Torbay Council's Licensing Committee to determine if you remain a fit and proper person to hold a Licensed Drivers badge with this Local Authority.

No date for the committee has been set and the required information is laid out in the latter which you should receive today.

Thanks

Shaun

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WILSONS INSURANCE BROKERS

Units 9 and 10
Paramount Business Park
Wilson Road, Huyton
Liverpool
L36 6AW

TELEPHONE : 0151 4806000

Policy Underwritten by :
Markerstudy Insurance Company Limited
and/or its Co-Insurers
Branch : W | 1222 | Broker A/C : 4755
Operator : U8 | Policy No : HV47558004813
CDL : 8.51/1409/MY/JM | Ref : 132027/2
MARKER.CRX | Printed : 21st June, 2021 @ 12:14
© Copyright 2018 Cheekire Datasystems Limited

CERTIFICATE OF MOTOR INSURANCE



Certificate No. HV47558004813

1. Registration Number of Vehicle. [REDACTED] £100/EO

2. Policyholder. Mr Dale Green

3. Effective date of the commencement of Insurance, for the purpose of the relevant law. 12:12 Hours 21st June 2021

4. Date of the expiry of Insurance. 12:00 Hours 21st June 2022

5. Persons or classes of persons entitled to drive. The Policyholder Only.

Provided that the person driving holds a licence to drive the vehicle or has held and is not disqualified for or prohibited by law from holding or obtaining such a licence

6. Limitations as to use.
Use for social domestic and pleasure purposes and for the carriage of passengers for hire or reward by prior arrangement to the commencement of the period of hire.
Excluding standing or plying for hire, racing, pacemaking, speed testing, competitions, rallies or trials, track days or use for any purpose in connection with the Motor Trade.

Exclusions:

I hereby certify that the insurance to which this certificate relates satisfies the requirements of the relevant law applicable in Great Britain, Northern Ireland, The Isle of Man, The Island of Guernsey, the Island of Jersey and the Island of Alderney.

Gary Humphreys
Underwriting Director
Markerstudy Insurance Company Ltd and/or its co-insurers
Registered in Gibraltar (Reg No. 78789)
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Note: For full details of this insurance cover reference should be made to the Insurance Document and Schedule.
Advices to Third Parties - Nothing contained in this certificate affects your right as a third party to make a claim.

WARNING

1. If the Certificate permits driving other cars as defined in section (5) of the Certificate, cover in respect of this extension is limited to Third Party risks only.
 2. If the Insured sells or otherwise disposes of the vehicle, the Certificate and all sections of the Insurance cease to be effective.
- This insurance policy is issued by Markerstudy Insurance Services Limited

To ensure that your claim is settled quickly and efficiently, please call our 24 hour Claims Helpline: 0344 873 8183

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Registered office 45 Westerham Road, Bessels Green, Sevenoaks, Kent TN13 2GB

Edwards, Jonathon

To: Cox, Steve
Subject: FW: Vehicle suspension

Steve Cox
Environmental Health Manager (Commercial)
Torquay Council
C/o Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208025
Fax: 01803 208043



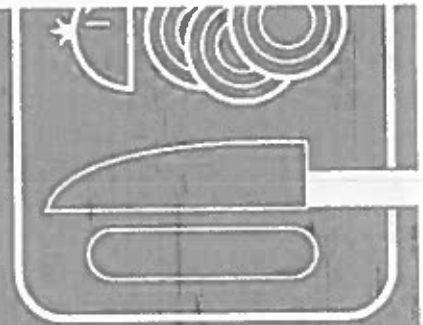
Food Safety and Licensing

@TorbayFSL



Community Safety

Tel: 01803 208025 www.torbay.gov.uk/licensing



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From: Dale Green <[REDACTED]>
Sent: 31 October 2021 17:10
To: Cox, Steve <Steve.Cox@torbay.gov.uk>
Subject: Re: Vehicle suspension

Hi steve,im sure it was around a week after riviera cancelled that i came accross a email about the cancelled policy. I contacted rob and made him aware and that couldn't work untill id sorted out insurance. When i took out the policy near end of june this is were i didn't have my prof of my no claim through the post yet from Riviera and it sliped my mind once i hadnt recived it in the mail.i was unaware this had been cancelled untill i recived a call from shaun.i ameditly contacted them to see wat the issue had been and was told it was cancelled as they hadn't received the prof of my no claims document.i ameditly contacted riviera to request it.i then was able to start a new policy after forwarding the document .

My contact number is [REDACTED]

From: Cox, Steve <Steve.Cox@torbay.gov.uk>
Sent: 22 October 2021 07:52
To: Dale Green <[REDACTED]>
Cc: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: RE: Vehicle suspension

Dear Mr Green

I have now drafted a report for committee, which will be heard on 11th November 2021 at 9.30 at Torquay Town Hall. There is one other matter being heard so please allow a couple of hours, as you may not be the first hearing, but I still need you there by 9.30am.

If you could respond to my email below by **Sunday 31st October**, when I will include anything to send to me in the committee report. This will be published on the 4th November and I will send you the link to it on our website.

Steve Cox
Environmental Health Manager (Commercial)
Torquay Council
C/o Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208025
Fax: 01803 208043



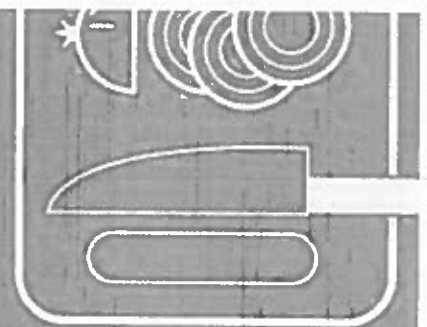
Food Safety and Licensing

@TorbayFSL



Community Safety

Tel: 01803 208025 www.torbay.gov.uk/licensing



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From: Rackley, Shaun
Sent: 20 October 2021 21:27
To: 'Dale Green' <[REDACTED]>
Subject: RE: Vehicle suspension

Dear Mr Green

Shaun is currently off for a few weeks, so he will not have seen your email below. I do however have sight of both the emails you refer to dated 7th and 8th October. I have taken responsibility for this case meanwhile.

I need some clarity on the matter of insurance please.

Looking at the information submitted to us, can you confirm or explain the following

Your insurance with Riviera was cancelled on the 3rd June, by them. When and how did you know this was the case?

Your took out insurance with Markerstudy on the 21st June, which you now appear to be saying was also cancelled due to not submitting relevant documents? Is this right?

A new insurance policy was implemented on the 5th October, once this matter had been brought to your attention.

If you can initially reply to my questions, if possible by Friday 22nd October at midday, and then if we need to speak you can let me have your phone number for me to ring.

Thank you.

Steve Cox
Environmental Health Manager (Commercial)
Torbay Council
C/o Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel: 01803 208025
Fax: 01803 208043



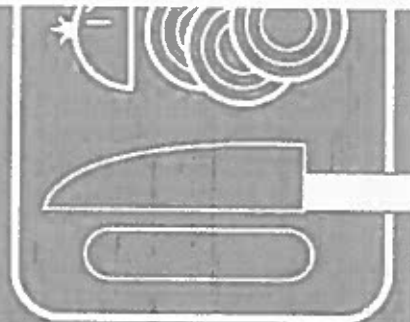
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Cox, Steve

From: Paul Sneap [REDACTED]
Sent: 06 October 2021 11:44
To: Rackley, Shaun
Subject: Re: Dale Green
Attachments: bookings-report-20211006-1112.csv; bookings-report-20211006-1127.csv; bookings-report-20211006-1128.csv; bookings-report-20211006-1128 (2).csv

Hi Shaun,

As we believe you have now received Dale Greens Vehicle insurance along with confirmation of the vehicle taxation. Is he permitted to continue to use this vehicle?

I have also attached booking details for the required time period requested.

Thank you,

Kind Regards

Paul



Paul Sneap
Director
Price First Taxis Ltd



01803 322322 | 07843437407

paul@pricefirsttaxis.com

www.pricefirsttaxis.com

145 Reddenhill Road, Torquay, TQ1 3NT



On 5 Oct 2021, at 14:57, Rackley, Shaun <Shaun.Rackley@torbay.gov.uk> wrote:

Hi Rob,

As discussed, please can you provide me with a jobs list for Dale Green (vehicle reg [REDACTED] [REDACTED] for any jobs that he has done since 1st June 2021.

His vehicle has been immediately suspended and will not be re-instated until he can show me proof of Tax and Insurance as that has also lapsed.

Thanks

Shaun

<image001.png>

Shaun Rackley | Licensing Officer |
Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 208025 | shaun.rackley@torbay.gov.uk

TORBAY COUNCIL

Report No:		Public Agenda Item:	YES
Title:	Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence		
Wards Affected:	All		
To:	Licensing Sub-Committee	On:	11th November 2021
Key Decision:	No		
Change to Budget:	No	Change to Policy Framework:	No
Contact Officer:	Steve Cox		
☎ Telephone:	01803 208025		
✉ E.mail:	Steve.cox@torbay.gov.uk		

1. What we are trying to achieve

- 1.1 This report asks Members to consider whether the holder of a Torbay Council issued Driver's licence remains a 'fit and proper person to hold such a licence' following the criteria as set out in the current Hackney Carriage and Private Hire Licensing Policy 2019 to 2022.

2. Recommendation(s) for decision

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony. Therefore, there is no recommendation. The options available to Members, however, are highlighted in paragraph **A3.1 of Annex 1** to this report.

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 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, in conjunction with section 46 of the Town Police Clauses Act 1847 make provision for the licensing of drivers and state that a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.
- 3.3 Section 61 Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew the licence of a driver of

a hackney carriage or a private hire vehicle on any of the following grounds: -

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) any other reasonable cause.

3.4 This report follows contact from Mr Paul Batt that he was charged with and then convicted of 'driving without due care and attention'. This has resulted in 8 points on his licence. This is considered a Major Traffic Offence under Hackney Carriage & Private Hire Licensing Policy 2019-22.

3.5 In mitigation, Mr Batt fully complied with Section 9.1 of Torbay Council's Policy, and that is to keep Torbay Council fully informed. The Court have not removed his driving licence, and he has a clean record of complaints against him in the 10 years he has been a Torbay Council issued licensed driver.

3.6 It is for the Licensing Sub-Committee to consider whether Mr Batt remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire drivers' licence.

3.7 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

**Steve Cox
Environmental Health Manager (Commercial)**

Annex 1 - Supporting information

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 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.
- A1.3 Section 61 Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds: -
- (a) that he has since the grant of the licence—
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.
- A1.4 The legislation does not set out the criteria as to what is considered 'fit and proper', therefore leaving it for the Licensing Authority to determine whether a driver or an applicant is indeed 'fit and proper' to hold such a licence. In Torbay these matters are covered within its Hackney Carriage & Private Hire Licensing Policy 2019-22, which states;

In setting out its Policy, the Licensing Authority seeks to promote the following objectives:

- *The safety and health of drivers and the public;*
- *Vehicle safety, comfort and access;*
- *To prevent crime and disorder and to protect the public;*
- *To encourage environmental sustainability.*

Public safety is paramount, and this Licensing Authority seeks to ensure through its licensing regime that all taxi and private hire vehicles are fit for purpose and that their drivers and/or operators are fit and proper persons.

- A1.5 Torbay Council's Hackney Carriage & Private Hire Licensing Policy goes on to say;

1 General Policy

1.1 *Each case will be decided on its own merits.*

1.2 *The Licensing Authority has a duty to ensure, so far as possible, that applicants are 'fit and proper' persons to hold licences and in the absence of a judicially approved definition of "fit and proper", the Licensing Authority use the*

test of:

“Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone”

The wording of this test originates from Button, J. T. H. (1999), Taxis – Licensing Law and Practice, Butterworths, London.

1.3 The overriding consideration is the safety of the public. The Licensing Authority has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit. An aspect of this is the extent to which previous convictions, including but not limited to convictions of dishonesty, sexual offences, traffic offences, violence and drugs, indicate that a person is not a ‘fit and proper’ person and would not take advantage of passengers or abuse or assault them.

- A1.6 On the 14th July 2021 Mr Batt, a Licensed Driver with Torbay Council notified the Licensing Office, as he is required to do, that he has been charged with ‘driving without due care and attention’. He was asked to contact us when the outcome of the court case was confirmed. This he did on the 29th July 2021, the day after the court hearing. He received 8 points on his driving licence. See Appendix 1. A copy of the DVLA Register confirms the offence to be driving without due care and attention. See Appendix 2.
- A1.7 On the 8th October 2021 Shaun Rackley, Licensing Officer, emailed Mr Batt asking for an explanation to be included within any committee report, which Mr Batt subsequently did. See Appendix 1. Included within Mr Batt’s submission was reference to a statement from the injured party.
- A1.8 On the 18th October 2021, Steve Cox, email Mr Batt seeking a copy of the statement from the injured party, should he wish to forward that to be included within the report. This was followed by a further email on the 21st October 2021, giving Mr Batt the opportunity to say anything in addition or to provide that statement by the 31st October 2021. See Appendix 1.
- A1.9 Mr Batt responded to the email, though there maybe some confusion over the availability of a statement, which may need to be clarified at the committee hearing. He also advised that he will be accompanied by Mrs Denise McDowell his manager.
- A1.10 Section 8.2 of Appendix A of Torbay Council’s Hackney Carriage & Private Hire Licensing Policy 2019-22 for Major Traffic Offences, which ‘driving without due care and attention’ is, says;

In the case of a licensed driver being convicted of a serious road traffic accident, the Licensing Authority may suspend or revoke the licence or an application to renew the licence being refused.

- A1.11 Section 9.1 of Appendix A of Policy goes on to say:

Licence holders must notify the Licensing Authority within 48 hours of an arrest and release, charge or conviction of any offences listed within this Policy. An arrest for any of the listed offences, will result in a review by the Licensing Authority as to whether the licence holder is fit to continue to hold a licence. It is not a predetermination that the licence should be revoked, it is for the Licensing Authority to consider what, if any action in terms of the licence should be taken, based on the balance of probabilities.

A1.12 In mitigation, Mr Batt fully complied with Section 9.1, and kept Torbay Council fully informed. He has retained his driving licence with DVLA, and he has a clean record of complaints against him in the 10 years he has been a Torbay Council issued licensed driver.

A1.13 Members are requested to consider whether Mr Batt remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire Drivers' licence, taking into consideration the circumstances in this report and those presented to members on the day.

A1.17 There is a right of Appeal to the Magistrates' Court against the Licensing Sub-Committee decision. Such an appeal must be lodged 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 two risks. The first risk to be considered is whether Mr Batt presents a public safety risk to the general public should he continue to hold a licence to drive a Hackney Carriage or Private Hire vehicle.

A2.1.2 The second risk relates to the potential for an appeal should Mr Batt's licence be suspended or revoked and/or have additional conditions imposed.

A3. Options

A3.1 The options are:

- (i) To do nothing, if satisfied that Mr Batt remains a 'fit and proper' person to drive a Hackney Carriage or Private Hire Vehicle.
- (ii) To issue a written warning.
- (iii) To suspend or revoke Mr Batt's Torbay Council issued Driver's Licence on the grounds that he is no longer considered to be a 'fit and proper' person to hold such a licence, though any temporary suspension must relate to an action that is time based.

A4. Summary of resource implications

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

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

A5.1 There are no environmental sustainability issues, equalities or crime and disorder issues other than as outlines in this report.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation on this matter, as there is no requirement for the Licensing Sub-Committee to consult the public in this regard.

A7. Are there any implications for other Business Units?

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

Documents available in members' rooms

None

Appendices

Appendix 1 Series of emails between 14th July 2021 and the 21st October 2021, between Mr Batt and Torbay Council's Licensing Officers.

Appendix 2 Copy of DVLA Register dated 21st October 2021

Background Papers:

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

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2019 to 2022

Edwards, Jonathon

From: Rackley, Shaun
Sent: 18 October 2021 20:01
To: paul batt
Cc: Rackley, Shaun
Subject: RE: Paul Batt accident on 20/4/2021

Dear Mr Batt

Shaun is currently away for a few weeks, so meanwhile I will be picking up any more urgent taxi work. Can you send me a copy of the Lady's statement, since you say you have one. Do you have any contact details for her too.

I will be in touch about a committee date.

Steve

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-----Original Message-----

From: paul batt [REDACTED]
Sent: 17 October 2021 12:32
To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: Re: Paul Batt accident on 20/4/2021

I was waiting to turn right at the junction of Kings Dive and Rae Barn Road Brixham there was traffic coming from both directions, a car stopped to my right to let me out of the junction so I checked to my left to see if it was clear for me to turn into the traffic.

A lady crossed the road and was by the side of my car on the offside the traffic was clear so I started to pull out onto Rae Barn Road when the lady fell over and slipped under my front wheel, I stopped immediately as I was only moving at no more than 5 miles per hour but as she was so close my front offside wheel rolled onto her legs. I moved immediately and I then called the emergency services requesting both police and ambulance. I have a statement by the lady in question which states that she fell over.

Regards
Paul Batt

Sent from my iPad

> On 8 Oct 2021, at 08:37, Rackley, Shaun <Shaun.Rackley@torbay.gov.uk> wrote:

>

> Hi Paul,

>

> Sorry for the delay in coming back to you.

> I can now confirm that I will refer this matter to Torbay Council's Licensing Committee where they will decide if you remain a fit and proper person to continue to hold a licensed drivers badge with this Local Authority.

>

> To assist me writing the Committee report, please can you send me a detailed account of the incident and any mitigating circumstances by no later than the 18th October 2021.

>

> A date of the hearing has not been set, but once I have your submission and have written the report I will be able to communicate a date to you where you will be able to attend and present your case to the Committee members.

>

> I look forward to hearing from you in due course.

>

> Regards

>

> Shaun

>

>

> Shaun Rackley | Licensing Officer | Town Hall, Castle Circus,

> Torquay, TQ1 3DR

> 01803 208025 | shaun.rackley@torbay.gov.uk

>

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>

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>

> -----Original Message-----

> From: paul batt [REDACTED]

> Sent: 29 July 2021 07:12

> To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>

> Subject: Paul Batt

>

> Yesterday I got 8 points on my license when I appeared in court.I

> would like to go to committee to appeal the loss of my taxi badge and

> license as lead a clean license and have never had a complaint against

> me in over 10 years of driving as a taxi driver Regards Paul Batt

>

> Sent from my iPad

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Vehicles you can drive

Penalties and
disqualifications

Get your check code

To find out more visit the [penalty points](#) and [disqualifications](#) sections.

You have

8 current penalty points

CD10 Penalty points: 8 Offence date: 20 Apr 2021 Hide information 		
Offence dates Offence date: 20 Apr 2021 Expiry date: 20 Apr 2024 Removal date: 20 Apr 2025	Offence details CD10: Driving without due care and attention Penalty points: 8 Fine: £325.00	Court/Fixed penalty office 1302: South and West Devon Magistrates' Court