

Wednesday, 1 December 2021

LICENSING SUB-COMMITTEE

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

Thursday, 9 December 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 Ellery

Councillor Barbara Lewis

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. **Minutes** (Pages 4 - 11)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 7 October and 11 November 2021.
4. **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.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Review of Torbay Council issued Driving Licence** (Pages 12 - 20)
To consider a report on whether the holder of a Torbay Council issued Driver's licence remains a 'fit and proper person to hold such a licence'.
7. **Review of Torbay Council issued Driving Licence** (Pages 21 - 65)
To consider whether the holder of a Torbay Council issued Driver's licence remains a 'fit and proper person to hold such a 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.

Minutes of the Licensing Sub-Committee

7 October 2021

-: Present :-

Councillors Ellery, Barbara Lewis and Douglas-Dunbar

21. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

22. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Douglas-Dunbar instead of Councillor Dart.

23. Minutes

The Minutes of the meeting of the Sub-Committee held on 19 August and 2 September 2021 were confirmed as a correct record and signed by the Chairman.

24. Hyde Dendy, 18 Esplanade Road, Paignton, TQ4 6BD

Members considered a report on an application for a Variation to a Premises Licence in respect of Hyde Dendy, 18 Esplanade Road, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation in respect of the Licensing Objectives 'The Prevention of Crime and Disorder' and 'the Protection of Children from Harm'.	10 September 2021
Public Protection Officer	Representation in respect of the Licensing Objectives 'Public Safety' and 'The Prevention of Public Nuisance'.	13 September 2021

Oral Representations received from:

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

	Members questions.
Public Protection Officer	The Public Protection Officer outlined his representation and responded to Members questions.

Decision:

That the application for a Variation to a Premises Licence in respect of the Hyde Dendy, 18 Esplanade Road, Paignton, TQ4 6BD be granted as applied for, subject to the following conditions:

- 1) That there shall be no under 18's permitted on the premises after 10 pm except for staff and those staff shall be permitted up until 11 pm only.
- 2) All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after 11 pm from which it is intended or likely that a person shall drink.
- 3) The placing of refuse, such as bottles, in receptacles outside the premises must not take place between 10 pm and 9 am to prevent disturbance to nearby properties.
- 4) All staff involved in the sale of alcohol after midnight at the premises shall be trained and hold, within three months of the commencement of their employment, the BIIAB Level 1 Award in Responsible Alcohol Retailing, or similar qualification.
- 5) A clicker system shall be in operation at the premises to ensure number capacity of the new licensed area to that of the current licensed area is maintained.
- 6) A queuing area shall be identified in the new licensed area and the current licensed area to ensure that those wishing to use the toilets do not cause an obstruction in the connecting corridor.
- 7) Where the new licensed area is open for the sale of alcohol after midnight and closes after 00.30 hours there shall be a minimum of 7 SIA door supervisors employed on the premises from 22.00 hours until 30 minutes after the premises closes. At all other times, the ratio of door stewards shall be as identified in condition 3 of Annex 3 of the current premises licence.
- 8) When the new licensed area is open, the maximum capacity in that area shall not exceed 150 patrons.
- 9) That there shall be a written Noise Management Plan in place, in accordance with the findings of an up-to-date Noise Consultant report, and as agreed by the Licensing Authorities Public Protection Officer.

- 10) That the current gate leading from the premises, exiting on to Kernou Road shall be of a more solid structure and shall be converted to the height of the pillars currently in situ.

Reasons for Decision

Having carefully considered all the written and oral representations, Members resolved to grant the application for a Variation to a Premises Licence having been satisfied that with the additional conditions, the variation applied for would not undermine the Licensing Objectives and would not cause a nuisance to nearby residents. In coming to that decision, Members were further reassured, having heard from both the Police and the Public Protection Officers that these premises were well managed and that these Officers were confident that should an issue of concern arise, the Premises Licence Holder would work with them to find a resolve.

Whilst noting the application was to increase the premises capacity by 250 patrons', Members could not be satisfied on the evidence before them that such a number would not add to crime and disorder, especially in respect of the internal pinch point or increase levels of noise upon dispersal of such a number of patrons. Therefore, Members sought to reduce the number permitted in the extended licensed area and put conditions in place that if complied with, would alleviate the risks associated with a pinch point from within the premises. Should Members concern regarding increased crime and disorder and noise prove to be unfounded due to effective management, Members would welcome the submission of a further application to extend this number.

Members sought to further strengthen the measures already in place in respect of the gate on to Kernou Road, by requiring the installation of a greater physical barrier, determining that this would better deter patrons attempting to exit the premises via this gate on to Kernou Road.

In concluding, Members noted the submission of the Responsible Authorities, the responses given by the premises representative and those supporting the application and resolved that the reduction in the number of patrons in the extended licensed area and the inclusion of the additional conditions would alleviate their concerns.

25. Adjournment

At this juncture, the meeting adjourned until 1.30 pm.

26. Review of a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham, TQ5 9BU

Members considered a report on an application for a Review of a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Application and supporting information for a Review Hearing.	4 August 2021
Public Protection Officer	Representation in support of the application for Review.	31 August 2021

Additional Information:

Prior to the Hearing the Police requested additional documents to be circulated including suggested additional conditions.

With the agreement of the Chairman, the time permitted for the submission of oral representations was extended to 20 minutes for all parties.

At the Hearing, proposed additional conditions from the Public Protection Officer were circulated.

Oral Representations received from:

Name	Details
Applicant (Police)	The Applicant for a Review of Premises Licence outlined their application.
Public Protection Officer	The Public Protection Officer outlined his representation and suggested additional conditions.
Respondent	The Respondent outlined her representation and confirmed that they agreed with the suggested additional conditions submitted by the Applicant (Police) and the Public Protection Officer.

Decision:

That in respect of the application for a Review of a Premises Licence of Jackz Bar, Parkham Road, Brixham, Members resolved to modify the conditions of the premises licence to include the conditions proposed by the Police and Public Protection Officers, as agreed by the Respondent, Premises Licence Holder, along with the following two conditions:

- 1) That Mr Ross Hennessey be prohibited from entering the premises during operational hours.
- 2) That Mr Ross Hennessey shall not be involved in or influence the operation of these premises; and

That the premises licence shall be suspended until 7 January 2022.

Reasons for Decision

In coming to this decision, Members had careful regard to all the written and oral representations from both the Respondent, Premises Licence Holder and the two Responsible Authorities, namely, the Police and Public Protection.

Members noted the Respondent, Premises Licence Holder's acceptance in full of the proposed conditions put forward by the Police and the Public Protection Officers and were satisfied on the evidence before them, that these were both appropriate and proportionate.

In respect of the two additional conditions which prohibit Mr Ross Hennessey from entering the premises during operational hours, and from having any involvement or influence in these premises' operations, Members determined this was again both necessary and proportionate, to enable the new Premise Licence Holder, Ms Stephanie Trust, an employee of Mr Hennessey, the opportunity to operate the Premises without influence or interference by him which ensured that the conditions of the premises were complied with and that the Licensing Objectives would be promoted.

In determining this, Members noted that Mr Hennessey had applied for a transfer of the premises licence to himself in respect of these premises and that at a Licensing Sub-Committee hearing held on the 24 June 2021, Members of that Committee unanimously resolved to refuse this application, following an objection by the Police, coupled with determining at an earlier hearing that same day, that Mr Hennessey's Premises Licence of another premises operated by him be revoked. Despite this refusal and noting that the Premises Licence and Designated Premises Supervisor were transferred with immediate effect later that day into the name of another, being Miss Holly Harley who was also an employee of Mr Hennessey, it appeared to Members on the evidence before them, that Mr Hennessey sought to circumvent this decision, with Ms Harley being no more than a front, enabling him to operate these premises as he had intended.

In forming this view, Members noted the submissions of the Responsible Authority Officers that Mr Hennessey had continued to influence and have considerable involvement in the Premises, despite holding no licensed position. Added to this, was confirmation by Ms Stephanie Trust who had only formally been appointed to this position the morning of the Review hearing, following notification from Miss Harley to the Police two days before the hearing that in respect of these premises she had resigned from the position of Premises Licence Holder and Designated Premises Supervisor with immediate effect and that both Ms Harley and Mr Hennessey had agreed to transfer the Premises Licence and Designated Premises Supervisor position to Ms Trust., that Mr Hennessey had co-written the response read out by her at the Review hearing which of concern to Members, did not accord with Ms Trust's earlier confirmation that she accepted in full the proposed conditions put forward by the Responsible Authority Officers; and Mr Hennessey being present at this Review hearing, with Ms Trust looking to him for responses.

Member gave careful consideration to revoking the Premises Licence, having heard the number and seriousness of incidents that had occurred at these

premises within a four month period of the premises being transferred to Ms Harley, to that previously recorded within each twelve month period under the previous ownership; and the absence of an experienced and independent Premises Licence Holder to operate these premises in a responsible manner, with a firm management style required of these premises which holds a late licence and ensured that the Licensing Objectives would be promoted.

However, having carefully taken all factors in to consideration, including Ms Trust working at the premises on a casual basis for fifteen years, her recognition that she needs to ensure separation between her employer and her responsibilities as the Premises Licence Holder and commending her for attending the Review Hearing, confirming that she was willing for it to go ahead, despite only just taking on the position, Members resolved to provide Ms Trust with an opportunity to operate these premises, as opposed to revoking the Premises Licence. Nevertheless, Members could not be satisfied on the evidence before them that Ms Trust possessed the skills or experience necessary to take on this role immediately, ensuring that all the conditions of the Premises Licence would be complied with and that the Licensing Objectives would be promoted. In forming this opinion, Members noted that Ms Trust had never held such a position before and when asked about appropriate policies, relating to drugs, weapons, noise management etc for staff to follow to ensure the premises were operated in a responsible manner which promoted the Licensing Objectives, familiarity of the Premises Licence conditions and what she would do when faced with challenging circumstances, Ms Trust's answers were very vague. Included in this, was Ms Trust's submissions that she would do whatever Members thought best and would take their recommendation of the training they thought she needed.

In light of this, Members determined that a three-month suspension was appropriate and proportionate, to enable Ms Trust to undertake necessary training for herself and where appropriate, staff too, to implement practices, procedures and policies to improve the management of these premises going forward, for all staff involved in the sale of alcohol to be aware of their responsibilities, all relevant staff to be fully aware of the conditions of the premises licence and their responsibilities in ensuring compliance is maintained, including employed SIA Door Stewards and to put in place the actions required, arising out of the new conditions proposed by both the Police and Public Protection Officers. Only then, could Members be assured that the Licensing Objectives would be promoted, and the concerns raised by the Responsible Authorities and formed by themselves on the evidence before them, be alleviated.

Chairman/woman

Minutes of the Licensing Sub-Committee

11 November 2021

-: Present :-

Councillors Atiya-Alla, Ellery and Mills

27. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

28. Review of Torbay Council issued Driving Licence

Members considered a report that set out relevant facts relating to a holder of a Torbay Council issued dual Hackney Carriage and Private Hire drivers licence. Members were requested to determine on the facts before them, whether or not the holder of the dual Hackney Carriage and Private Hire drivers licence remained a fit and proper person to hold such licence.

The Respondent addressed Members and responded to questions.

Decision:

That Mr Dale Green's Torbay Council Driver's Licence be revoked in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 and that this revocation shall have immediate effect, in accordance with Section 61(2B) of the Local Government Miscellaneous Provisions Act 1976.

Reasons for Decision

In coming to that decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with Mr Green alone. An unequivocal and unanimous answer by Members to this question, was 'no'.

Notwithstanding the mitigating circumstances presented by Mr Green, Members were concerned that Mr Green was a driver licenced by Torbay Council and as a professional driver, he had undertaken in the region of 900 journeys, conveying members of the public, in a vehicle that had no tax or insurance. Members recognised that Mr Green accepted responsibility for not addressing his emails in a timely manner, however found it difficult to comprehend that Mr Green had not noticed that the monthly insurance payments had ceased, thereby missing a second opportunity to consider whether something was amiss with his vehicle's insurance. Members noted that Mr Green's lack of vehicle insurance and road tax

was brought to the attention of the Licensing Authority following a whistleblowing complaint; and it was therefore their belief, that had this complaint not been made, Mr Green would still have been driving without vehicle tax and insurance, putting the public at great risk.

Members commended Mr Green for the speed of his action in addressing the absence of having insurance in place, following the Licensing Authority contacting him and the vehicle licence being suspended, until this was remedied. Nonetheless, Mr Green had conveyed a considerable number of passengers whilst not having vehicle insurance, putting the public's ability of any resource at considerable risk, in the event of an accident.

In concluding, Members resolved to revoke Mr Green's drivers' licence with immediate effect, as they could not be satisfied that he remained a 'fit and proper person' to hold a Torbay Council Dual Hackney Carriage and Private Hire Drivers Licence. In determining this, Members believed that Mr Green's conduct as a professional driver had been reckless and notwithstanding his mitigating circumstances, to suspend with immediate effect was in their opinion, both necessary and proportionate, to ensure public safety.

29. Review of Torbay Council issued Driving Licence

This item was deferred at the request of the Respondent.

Chairman/woman

TORBAY COUNCIL

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: **9th December 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

This email and any attachments are intended solely for the use of the intended recipient(s) and may contain confidential information and/or may be legally privileged. If you have received this email in error, please notify the sender immediately and delete this email.

-----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

>

> www.torbay.gov.uk

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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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Penalties and
disqualifications

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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

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:	9th December 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 a series of events and complaints regarding Mr Setters. The first being an email dated 29th September 2021 from Mr Simon Setters that he had received four notifications for speeding. The second relates to complaint dated 4th October 2021 about an alleged sexual act within a licensed vehicle witnessed by minors and the third, was a complaint about an accident which resulted in the Hackney Carriage turning over in a lane near Ipplepen, in Teignbridge, Devon.
- 3.5 The speeding offences have yet to be confirmed by DVLA and there could still be legal proceedings with regard to that matter, due to a resultant 12 points. With regard to the two complaints, there is conflicting submissions between the parties, so Members need to consider the report and appendices, to determine whether they consider Mr Setters 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 29th September 2021 the Licensing Team was in receipt of an email from Mr Simon Setters, advising that he had received 4 speeding fines. See Appendix 1.
- A1.7 On the 4th October 2021, a District Commissioner of Scouting contacted the Council switch board, to report a sexual act taking place in a licensed vehicle outside an area used by scouts. Later on the same date, this was confirmed in an email following a conversation with Shaun Rackley, Licensing Officer. You will read in the email that the allegation is that the occupants of the vehicle, a male, later determined to be Mr Simon Setters, and a lady, were both naked and undertaking a sexual act. The lights were on and this was allegedly witnessed by a minibus of scouts, who were within the vehicle being driven past by the District Commissioner of Scouting. A photo was submitted with the email, which did confirm that the vehicle was indeed Hackney Carriage 163, that driven by Mr Simon Setters. See Appendix 2.
- A1.8 On the 6th October 2021, Shaun Rackley wrote to Mr Simon Setters over both incidents above, seeking a response by the 15th October 2021. See Appendix 3.
- A1.9 On the 7th October 2021, the Licensing Team received a reply from Mr Simon Setters regarding both incidents. See Appendix 4.
- A1.10 On the 8th October 2021, Shaun Rackley emailed Torbay Cab Co, seeking to establish whether the said female was a passenger, and whether there was a more serious aspect to this allegation. The response confirmed that she almost certainly wasn't a passenger. See Appendix 5.
- A1.11 On the 14th October 2021, the Licensing Team received an email from a Taxi Operator, with regard to an accident involving the same vehicle, near Ipplepen. The mother of one of the young passengers was very concerned about the circumstances of the accident, where the vehicle had overturned. Fortunately, no one was seriously hurt. Jon Edwards, Licensing Compliance Officer, contacted the mother on the 15th October 2021, and summarised the discussion with the mother

in the final email of the attached sequence. See Appendix 6.

- A1.12 On the 15th October 2021, the Licensing Team received an email from the mother, summarising the events based upon her discussions with her daughter, as had been requested by Jon Edwards. See Appendix 7.
- A1.13 On the 19th October 2021, Steve Cox, wrote to Mr Simon Setters, seeking confirmation that he was the driver of HC163, and was therefore involved in an accident. He replied and confirmed that he was, later that same day. See Appendix 8.
- A1.14 On the 22nd October 2021, Steve Cox, wrote to Mr Simon Setters, advising him of the matters that he intended to include in a Licensing Sub-Committee report, giving him an opportunity to forward any additional information in the committee report. This resulted in an exchange of several emails, including extracts from the email statement from the mother, in relation to the vehicle accident. See Appendix 9.
- A1.15 On the 9th November 2021, the Licensing Team received a response from Mr Simon Setter with regard to the allegations made by the mother in relation to the vehicle accident, presenting his version of events. See Appendix 10.
- A1.16 On the 8th November 2021, the Licensing Team received an email with a letter dated 5th November 2021 on headed paper from the female occupant of the vehicle who was allegedly involved in a sexual act. This she denied. See Appendix 11.
- A1.17 On the 18th November 2021, Steve Cox, wrote to District Commissioner of Scouting, advising them that the Licensing Team had received a statement, in the form of a letter on headed paper, from the alleged female in the vehicle denying that any sexual act was taking place. The email was seeking confirmation that the female was allegedly naked on the night in question. This the District Commissioner of Scouting confirmed. See Appendix 12.
- A1.18 At the time of writing this report, there have been no criminal or road traffic convictions, though there remains the potential for one regarding the 4 speeding offences. With that in mind, there is nothing more to consider regarding the Hackney Carriage & Private Hire Licensing Policy 2019-22, beyond that covered A1.4 and A1.5 above.
- A1.19 Mr Setters has not been licensed as Hackney Carriage and Private Hire Driver for more than 6 months, so there is no history that can be supplied.
- A1.20 Members are requested to consider whether Mr Simon Setter remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire Drivers' licence, taking into account the four speeding offences, the allegations that relate to the sexual act in a licensed vehicle, observed by minors, and the circumstances surrounding the vehicle accident.
- A1.21 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 Setters 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 Setters'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 Setters 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 Setters'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 Mr Setters dated 29th September 2021 to the Licensing Authority

Appendix 2 Emailed statement from District Commissioner of Scouting dated 4th October 2021.

- Appendix 3 Letter from Shaun Rackley dated 6th October 2021 to Mr Setters, following up that Insurance Documents still needed.
- Appendix 4 Email from Mr Setters dated 7th October 2021 in response to Shaun Rackley's letter
- Appendix 5 Emails between the Licensing team and Torbay Cab Co dated between 8th and 11th October 2021.
- Appendix 6 Emails dated 14th and 15th October 2021 regarding a vehicle accident.
- Appendix 7 Email dated 15th October 2021 from mother of passenger in the vehicle accident
- Appendix 8 Email from Steve Cox to Mr Setters and his reply, both dated 19th October 2021 regarding the vehicle accident
- Appendix 9 A series of emails between Steve Cox and Mr Setters dated between 22nd Oct and 2nd November 2021 20th October about the contents of the committee report.
- Appendix 10 A response from Mr Setters regarding the allegations from the mother of the passenger in the vehicle accident received on the 9th November 2021.
- Appendix 11 A letter from the female occupant of the vehicle dated 5th November, regarding the sexual act allegations.
- Appendix 12 An email from Steve Cox to the District Commissioner of Scouting and their reply dated the 18th November 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

Agenda Item 7 Appendix 1

From: [Edwards, Jonathon](#)
To: [Cox, Steve](#)
Subject: FW: Speeding fines.
Date: 17 November 2021 11:28:02
Attachments: [image001.png](#)

Title: Torbay Council



Jonathon Edwards | Compliance Officer |
Food, Safety, Licensing
Town Hall, Torquay, TQ1 3DR
jonathon.edwards@torbay.gov.uk

www.torbay.gov.uk

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From: Simon Setters [REDACTED]
Sent: 29 September 2021 13:07
To: Edwards, Jonathon <Jonathon.Edwards@torbay.gov.uk>
Subject: Speeding fines.

I've woken up to the news that I've received 4 speeding fines. All around 35mph in 30mph zones. Would you be able to get in touch with the chap I rent my car from [REDACTED]
[REDACTED]

Edwards, Jonathon

From: [REDACTED]
Sent: 04 October 2021 10:42
To: Rackley, Shaun
Subject: Re: Email statement

Hi Sean

As a scouting leader using Easter Field Lane and the Torbay district camp site is a regular occurrence for myself and for hundreds of local children throughout the year, thousands of children throughout the summer. On Saturday evening it was necessary to use the lane for the purposes of moving children late at night 11pm ish as there was A problem with Southwest water and no water supply to the campsite, It was necessary to use the scout minibuses and leaders cars to move the children round about 11 o'clock at night to a suitable Scouting location/venue, allowing the young people to carry on their scouting activities for the weekend.

At the top gate of the campsite I was met by a taxi parked up with a lit top sign on (Hackney carriage) A dark-coloured vehicle with door plates on of 292292- surprisingly to me all the interior lights of the Hackney carriage were on, with all car headlights lit up illuminating the area, there was a man and a lady completely naked carrying out sexual acts. I had no choice at this particular point but to commit to driving past the license vehicle of Torbay Council, with lewd acts taking place with a minibus full of children looking on to see what was happening outside the window, with all the lights on in such a dark lane!

Whilst I have no personal malice for the driver I think that the location was completely inappropriate outside a children's campsite, the plate on the rear of the vehicle was a blue Hackney carriage Torbay Council plate of [REDACTED] I will forward to you shortly a photo that I took on the second leg of the journey, as two journeys were needed with a 17 seater minibus and leaders cars, however, the Hackney carriage was still in attendance, Although at this point the lady had returned to the front seat, dressed herself, and was looking somewhat sheepish, the male driver had also returned to the front seat, now clothed.

As the young people and adults within scouting were talking about this as a conversational piece, I would like a written response back from the council as to what has happened in making sure that this is not likely to happen again. This I can then take back to the parents to assure them that the council are listening to the people of Torbay.

Best wishes

“Amazing Leaders Delivering An Inspiring Program to Young People With The Skills For Life”

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On 4 Oct 2021, at 10:15, Rackley, Shaun <Shaun.Rackley@torbay.gov.uk> wrote:

Hi [REDACTED]

Please reply to me at this email address with all the details and I will pick the matter up.

Thanks

Shaun

<image001.png>

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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Please reply to: Shaun Rackley

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

My ref: SRU/266183

Your ref:

Telephone: 01803 208025

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

Website: www.torbay.gov.uk

Mr S Setters

[Address Removed]

Date: 6th October 2021

Dear Mr Setters,

**Re: Inappropriate behaviour complaint and DVLA points
Licensed Driver [Removed] Vehicle registration [Removed]**

I am writing to you to discuss two separate issues, the first being your notification of expected DVLA points on your driving licence and secondly, a complaint which I have received about your inappropriate behaviour whilst working in a licensed vehicle.

Firstly, I have been made aware by a colleague that since the issue of your licensed drivers badge on the 14th of July 2021 you have notified us that you are shortly due to receive four separate speeding convictions. I have also been made aware of this by the vehicle proprietor licence holder who as the legal owner of the vehicle, has had to notify the DVLA of whom was driving the vehicle on all four occasions.

Although you are yet to receive any punishment on your DVLA licence, it concerns me that you have only been a Licensed driver for less than 3 months and we are being notified of four separate speeding offences with a potential that you could lose your DVLA driving licence. This on its own questions your suitability to continue to hold a Licensed drivers badge with this Local Authority.

In addition to this, I have received a complaint about inappropriate behaviour from yourself whilst using HC [Number removed], vehicle registration [Removed]. I have spoken again to the Hackney Carriage Vehicle Proprietor to ascertain who was driving the vehicle at the time of the complaint and he has confirmed that you are the sole driver.

The complainant alleges that the above vehicle, was seen parked on Easterfield Lane, Torquay on Saturday the 2nd October 2021 at approximately 2300hrs, where a male and female were seen within the vehicle, naked and carrying out sex acts on each other in the rear of the vehicle whilst the internal light, taxi roof sign and headlights of the car were all on. The complainant also points out that the location of where you were parked is near a scout hut and camp site which is used by minors and on the night in question, the minors had to be transported down Easterfield Lane due to a problem with water supply.

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

Whilst they were being transported, they had to drive by your vehicle viewing the two occupants of the vehicle carrying out these sex acts.

In order for me to investigate the complaint, can you respond to me with your version of events as soon as possible and by no later than the **15th October 2021** either in writing to the postal address above, or via email. In addition to complaint please can you detail the expected four driving offences which you expect your driving licence to be endorsed with as I feel that both matters should be looked at together when questioning your fit and proper status as a Licensed driver.

Once I have this information I will determine if these matters need to be referred to Torbay Council's Licensing Committee.

To assist you I enclose a copy of the complaint along with a photo that was taken to demonstrate the accuracy of the vehicle details.

I look forward to hearing from you with the requested information in due course.

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

Yours sincerely

Shaun Rackley
Licensing Officer

Edwards, Jonathon

From: Simon Setters [REDACTED]
Sent: 07 October 2021 16:02
To: Rackley, Shaun
Subject: Reference No. SRU/266183

I received your letter this morning and still cannot quite believe the accusations made against my name. Whilst I was parked at Easterfield Lane Saturday night, I most certainly not was taking part in any activities accused in the letter. The lady in the car is a friend of the family, and most importantly, a former nurse. Whilst I do not want to, or expect to go into great detail about my health, I asked my friend to check something private I was greatly concerned about. The lights in the car were on for that reason, it required checking. Does he really think I'd be involving myself in indecent activities, with the lights on, and taxi sign on? These accusations against my name are outrageous and he really should have made sure what he saw was accurate before making them. This isn't on, and I'm not happy. My health is still a concern and not even my family know anything about it.

My speeding fines are also something I'm sceptical about, I drive around hundreds of roads every single week as I work really hard, so to get caught on the same camera, on the same road in Plymouth doesn't seem right. However if confirmed I at least am prepared to accept my carelessness. I'm still waiting for the details of the potential punishments.

Overall this has been a very worrying time for me in lots of ways. I've worked so hard to get to where I am, to what I consider my dream job. There is absolutely no way I'd do anything to purposely jeopardise it.

Thank you.

Simon Setters

Edwards, Jonathon

From: [REDACTED]
Sent: 11 October 2021 09:43
To: Rackley, Shaun
Subject: RE: Simon Setters

Simon was signed off between 21.50 and 23.29 so we have no knowledge of his movements between these times. He signed back on at 23.29 and completed a job to greenway rd at 23.48

Hope this helps

[REDACTED]

On 8 Oct 2021 12:49, "Rackley, Shaun" <Shaun.Rackley@torbay.gov.uk> wrote:

Hi [REDACTED]

Please could I have details of the 23:00hrs journey?

I'm dealing with a complaint against this driver around that time, hence I'm looking at whom he had in his vehicle and his movements.

Thanks

Shaun



Shaun Rackley | Licensing Officer |

Town Hall, Castle Circus, Torquay, TQ1 3DR

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

www.torbay.gov.uk

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From: [REDACTED]
Sent: 08 October 2021 11:15
To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: Re: Simon Setters

Hi Shaun.

We can confirm Simon was working on Saturday.

According to our records he completed a 9pm pick up and another at 23.30.

Happy to help in anyway.

Is there anything we need to be aware of?

Many thanks,

[REDACTED]

On 8 Oct 2021 09:08, "Rackley, Shaun" <Shaun.Rackley@torbay.gov.uk> wrote:

Hi [REDACTED]

Please can you confirm if Simon Setters did any jobs for [REDACTED] on Saturday 2nd October between 2100 hrs and 2359 hrs.

If so please can you provide me with the details.

Thanks

Shaun



Shaun Rackley | Licensing Officer |

Town Hall, Castle Circus, Torquay, TQ1 3DR

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

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If so please can you provide me with the details.

Thanks

Shaun



Shaun Rackley | Licensing Officer |

Town Hall, Castle Circus, Torquay, TQ1 3DR

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

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If so please can you provide me with the details.

Thanks

Shaun



Shaun Rackley | Licensing Officer |

Town Hall, Castle Circus, Torquay, TQ1 3DR

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

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Edwards, Jonathon

From: Cox, Steve
Sent: 15 October 2021 08:53
To: Edwards, Jonathon
Subject: RE: URGENT: Accident - your driver reg [REDACTED]

Thanks Jon.

I assume he can't be working if he as written off the car, but keep me updated and I will review the Flare later to see how far Shaun got with this one.

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



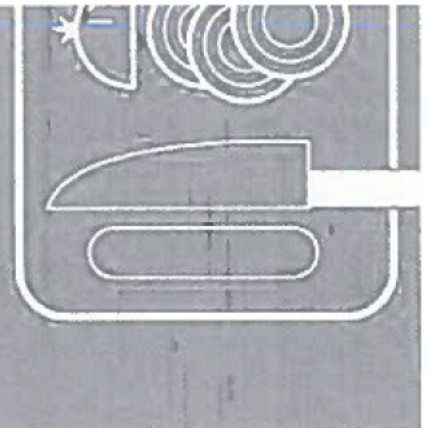
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@TorbayFSL



Community Safety

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



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From: Edwards, Jonathon <Jonathon.Edwards@torbay.gov.uk>
Sent: 15 October 2021 07:52
To: Cox, Steve <Steve.Cox@torbay.gov.uk>
Subject: FW: URGENT: Accident - your driver reg [REDACTED]
Importance: High

Good morning Steve,

I got the below email from Torbay Taxi's last night about an accident that did not involve on of their drivers but initially the complainant thought that is was.

They forwarded the details that they had to me and I called [REDACTED] She is the mother of one of 4 passengers (ages 17 and 3 x 18) that was in the vehicle in the early hours of Wednesday morning. These 4 passengers got into the Taxi at Torquay Harbour and were heading to a holiday cottage on the outskirts of Ippelpen.

The accident occurred when the car was only a few hundred yards away from the cottage on a country lane. The driver had allegedly been driving fast for the journey and was warned that there was a

sharp corner coming up but did not pay attention to this and that is when the vehicle crashed and rolled over twice. All the passengers managed to exit the vehicle, at this point the driver allegedly told them to go away as it was his livelihood at stake. Police and the ambulance service attended. Since then the passengers have been to hospital to have minor injuries sorted out.

The mother, [REDACTED], is greatly concerned about this driver being out on the road. They believe that he is called Simon and she told me last night that she is waiting to hear back from the Police about the incident and she will forward me information once she has it.

As you can see from the investigation work that Torbay Taxi's did for her the plate is owned by [REDACTED]. I spoke to him a few weeks ago and he goes to [REDACTED] for the winter. But the reason I was speaking to him was about a driver called Simon Setters. He is the one that we discussed yesterday that was caught in a lane doing things in a car. He also got 4 speeding fines in the space of 6 weeks recently. I don't know that this incident was him yet.

I will obviously forward you what I get from [REDACTED] but I just wanted to give you a head up that this is in the back ground at the moment.

Many thanks, Jon.

TORBAY COUNCIL

Jonathon Edwards | Compliance Officer | Food, Safety, Licensing

Town Hall, Torquay, TQ1 3DR
jonathon.edwards@torbay.gov.uk

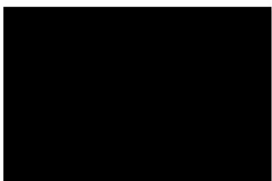
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From: [REDACTED]
Sent: 14 October 2021 15:53
To: Edwards, Jonathon <Jonathon.Edwards@torbay.gov.uk>
Subject: Fwd: URGENT: Accident - your driver reg [REDACTED]

FYI





Registered Office : [REDACTED]

VAT Registration: [REDACTED]

Company Registration No: [REDACTED]

----- Forwarded message -----

From: [REDACTED]

Date: Thu, 14 Oct 2021 at 15:39

Subject: Fwd: URGENT: Accident - your driver reg [REDACTED]

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

Hi SHAun,

You may be interested in this email.



Registered Office : [REDACTED]

VAT Registration: [REDACTED]

Company Registration No [REDACTED]

----- Forwarded message -----

From: [REDACTED]

Date: Thu, 14 Oct 2021 at 15:26

Subject: Re: URGENT: Accident - your driver reg no [REDACTED]

To: [REDACTED]

Hello [REDACTED]

Thank you very much for your help. I'm glad it wasn't one of your drivers too, apologies for the mistake there.

The driver gave a name that is not on the license.

I am awaiting the police to contact me.

Thank you again

Regards

[REDACTED]

On Thu, 14 Oct 2021 at 15:04, [REDACTED]

email : [REDACTED]

Good Afternoon [REDACTED]

I've attached a screenshot of the "292 292 (TorbayCab Company) Vehicle that we spoke about.

The name of the plate owner can be different to the Licensed Driver as some rent/co-own vehicles.

Regards,

[REDACTED]

Hackney Carriage Register as at 14:58 on 14 October 2021

Licence Number:	██████████
Issued:	30/03/2021
Commences:	01/05/2021
Expires:	30/04/2022
Name:	██████████
Registration Number:	██████████
Vehicle Description:	Black Toyota
No. of Passengers:	4

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21

On Thu, 14 Oct 2021 at 14:06, ██████████ wrote:

Dear ██████████

I have just been informed that my daughter and friends were in an accident in one of your taxis who picked them up in Torquay and was taking them back home to their holiday accommodation early hours of Wednesday morning. The accident happened on an unnamed road just a couple of hundred yards or so before their destination. This is a small lane and the driver was driving way too fast hence the crash, the vehicle turned over.

The police and ambulance were called and I am awaiting getting hold of this from the police there in Devon.

My daughter and her friend attended hospital yesterday evening having sustained some injuries.

Naturally I urgently would like to speak with you about this accident and obtain the drivers full details and insurance details.

The drivers name is Simon and his registration was ██████████ with the number ██████████ on the vehicle.

I will appreciate a call at your earliest opportunity.

Kind Regards



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From: [REDACTED]
Sent: 15 October 2021 14:27
To: Edwards, Jonathon <jonathon.Edwards@torbay.gov.uk>
Subject: Re: Taxi complaint

Hello Jon,

I followed up with the police having not yet received a call back. I'm now told the attending officers are off until Sunday so I won't hear anything from them until then. It's very frustrating for me that there seems to be no one else I can speak to until then.

My daughter was suffering significantly with her concussion and pains last night from generalised bruising across her legs and arms and her torn shoulder. I guess it took 36 hours or so for the adrenaline to subside and for her to really start to feel sore.

She's sleeping today having had a very sleepless night.

Whilst we await the police contact I am of course concerned that you need to be aware who this driver is, and that he should not be allowed to drive a taxi given he is very lucky not to have the deaths of 4 passengers on his hands. He clearly risked their lives with dangerous driving.

To confirm events for you, as has been told to me by [REDACTED]

My daughter and her friends picked up this taxi from the waterfront in Torquay perhaps around 12.30am Weds morning, I expect she may be able to give a clearer time in due course. It wasn't a straight forward journey back to the holiday cottage as the taxi didn't know where it was and they did get lost. They eventually made it to almost their destination, they were travelling down the lane (unnamed - [REDACTED] this is a narrow typical Devon rural farm lane. The driver was driving too fast in my daughter's opinion for the road (National speed limits may apply however we all know you can not drive safely at speed down these lanes). She passed her driving test herself just a month ago and so is acutely aware at the moment of the drivers driving style and of speeds. My daughter was sat in the middle of the back seat. All four of them had their seat belts on.

My daughter said she knew he was going too fast and told him there was a bend coming up, feeling worried. He didn't slow down and I guess almost immediately then crashed, rolling the vehicle due to the speed travelled at. The car came to a stop on its roof, which was a glass roof and smashed in but held together so to speak so it didn't shatter on them. My daughter and her three friends were all able to get their seat belts off, albeit falling onto their heads and bracing themselves within the vehicle, and climb out of one of the back doors of the car.

The driver also got out. It's all naturally quite a blur for [REDACTED] She recalls the engine was still on and tyres still rotating around at speed. There was smoke coming from the car which frightened her as she thought it may go up so she seemingly climbed back into the car herself to switch off the engine thinking on the spot that this was the right thing to do to prevent the car catching fire. The time was around 1.15am.

The driver asked if they were all ok, they were alive and in shock but I think the natural thing to say is yes. He requested them to leave the scene telling them he would be in trouble and could lose his livelihood, he stated to them the car had malfunctioned. I believe his statements to them were seemingly to cover himself.

As 4 young persons, in a state of shock, after getting themselves together, they did as he said and walked the remainder of the lane to the cottage. They then realised this was wrong, they walked to get phone signal and one of [REDACTED] friends called the police and ambulance and they returned to the crash site.

They were seen by the paramedics in the ambulance and the police took statements although [REDACTED] is a little unsure what she was asked or what information she has given due to her state of shock. The four of them did decline to go to the hospital. I suppose they were all just on adrenaline and not feeling their injuries at this stage. Being young I believe they were a little frightened too, not taking in the severity of what happened and not able to know what to do.

During the course of the day Wednesday all four of them attended A & E's at the hospital to have their injuries checked, having all began to feel their pains etc after the adrenaline subsided.

All four have varying injuries. My daughter has a torn shoulder and bruises to her legs and arms, general pain throughout her body due to the impact, she has a bump on her head and concussion, she has in fact just been sick again this afternoon.

Whilst we await the police contact, hopefully on Sunday, I am unaware if this driver was to be charged with dangerous driving or any offence.

Naturally I am concerned about the ongoing effect this may have on my daughter and her friends too. What I will require is how I obtain this driver's full name and insurance details. I understand they are self employed however am unsure if there may be some responsibility from the licensing body there at Torquay.

Please do feel free to ask if you have any more questions at this stage and also if you are able to assist further with who this driver is or his insurance details.

Kind Regards

[REDACTED]

On Thu, 14 Oct 2021 at 16:26, Edwards, Jonathon <Jonathon.Edwards@torbay.gov.uk> wrote:

Dear Mrs [REDACTED]

Thank you for spending the time to talk to me just now and again I would like to say how sorry I am that this incident has occurred and I do hope that your daughter and her friends are okay.

Please can you let me know what details you find out from the Police and provide me with a written statement of the events so that we can investigate the matter further.

Many thanks, Jon.

Edwards, Jonathon

From: Simon Setters [REDACTED]
Sent: 19 October 2021 18:37
To: Cox, Steve
Subject: Re: Road Traffic Accident

Yes I can confirm I was involved in an accident on the morning of the 14th October. On a country road towards Ipplepen, thick fog descended, even at the incredibly low speed I was travelling, I missed the corner due to extreme poor vision and rolled up a bank where the car then tipped over. There was zero impact, no crash as such, just that gravity tipped the car over. No one was injured in any way, and the police totally absolved me from any blame whatsoever. Apologies this has been reported late, I've had a lot to sort because of this as well as ongoing health concerns, added to the absolutely ridiculous and obscene accusation that was made against me from somebody to you. Anything else you need to know be free to email me.

[Sent from Yahoo Mail on Android](#)

On Tue, 19 Oct 2021 at 4:07 pm, Cox, Steve

<Steve.Cox@torbay.gov.uk> wrote:

Dear Mr Setters

I have reason to believe that you were the driver of a licensed vehicle that had an accident in the early hours of the 14th October on a lane near Ipplepen. I understand the Police attended.

Can you please advise me if this was the case and that you have informed the owner of the vehicle, who has a duty to inform us of any accident damage.

I am aware that Shaun Rackley has been in communication with you about some other matters, so it might be that this matter is added to any committee report, depending on the circumstances behind the accident assuming it was you driving the vehicle.

If you could give me a summary of the circumstances that led to the accident, again accepting you were the driver, by **Friday 29th October 2021** please, so if this matter is referred to committee your summary of events can be included in any committee report. 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



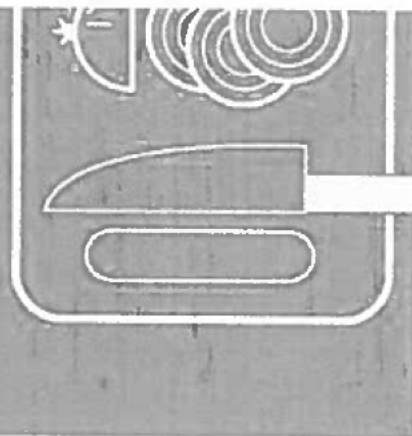
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Edwards, Jonathon

From: Cox, Steve
Sent: 02 November 2021 08:18
To: Simon Setters
Subject: RE: Road Traffic Accident

Dear Mr Setter

For the purpose of the committee hearing, any details of who the statement was from would remain confidential, though I would want to see who its from.

Regarding the parents report, then yes if you feel that is the best way to address the issues, do it line by line.

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



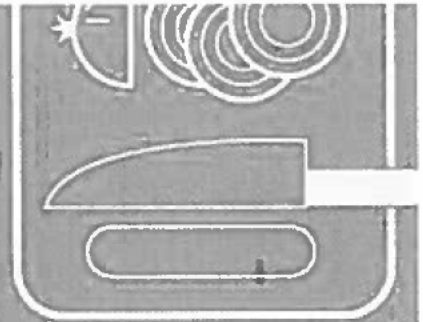
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From: Simon Setters [REDACTED]
Sent: 02 November 2021 08:14
To: Cox, Steve <Steve.Cox@torbay.gov.uk>
Subject: RE: Road Traffic Accident

I shall have the statement from the hospital worker in question in the next few days. But I need it to be confirmed that this will be confidential and her name won't be spread around? She's high up in the Oncology department so she's concerned about this?

Regarding the statement made by one of the parents... How do you want me to respond? Would a police report help? And do you want me to go through every point the parent made detailing how false the claims are?

Sent from Yahoo Mail on Android

On Mon, 1 Nov 2021 at 8:45 pm, Cox, Steve

<Steve.Cox@torbay.gov.uk> wrote:

Dear Mr Setter

The plan is for me to draft a report this week, which won't be published until next week at the earliest, so if you are able to let me have a response this week, that would be useful. Maybe you could update me by Friday and then I can review and decide on a committee date.

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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From: Simon Setters [REDACTED]
Sent: 25 October 2021 11:51
To: Cox, Steve <Steve.Cox@torbay.gov.uk>
Subject: RE: Road Traffic Accident

I am so genuinely shocked and angry at this parents total fabrication of a statement that I'm going to await legal advice before responding. I'll be getting advice this week and will respond when ready. Is that OK with you?

Sent from Yahoo Mail on Android

On Mon, 25 Oct 2021 at 9:08 am, Cox, Steve

<Steve.Cox@torbay.gov.uk> wrote:

Dear Mr Setters

Send any further information or statements to me at this email address.

As for the statement from one of your passengers, this is their email, which again you can respond to me via this email. I am now off until next Monday, so I will collate the information then and send you links to the committee report when written.

To confirm events for you, as has been told to me by XX:

My daughter and her friends picked up this taxi from the waterfront in Torquay perhaps around 12.30am Weds morning, I expect she may be able to give a clearer time in due course. It wasn't a straight forward journey back to the holiday cottage as the taxi didn't know where it was and they did get lost. They eventually made it to almost their destination, they were travelling down the lane

[REDACTED] this is a narrow typical Devon rural farm lane. The driver was driving too fast in my daughter's opinion for the road (National speed limits may apply however we all know you can not drive safely at speed down these lanes). She passed her driving test herself just a month ago and so is acutely aware at the moment of the drivers driving style and of speeds. My daughter was sat in the middle of the back seat. All four of them had their seat belts on.

My daughter said she knew he was going too fast and told him there was a bend coming up, feeling worried. He didn't slow down and I guess almost immediately then crashed, rolling the vehicle due to the speed travelled at. The car came to a stop on its roof, which was a glass roof and smashed in but held together so to speak so it didn't shatter on them. My daughter and her three friends were all able to get their seat belts off, albeit falling onto their heads and bracing themselves within the vehicle, and climb out of one of the back doors of the car.

The driver also got out. It's all naturally quite a blur for XXXX. She recalls the engine was still on and tyres still rotating around at speed. There was smoke coming from the car which frightened her as she thought it may go up so she seemingly climbed back into the car herself to switch off the engine thinking on the spot that this was the right thing to do to prevent the car catching fire. The time was around 1.15am.

The driver asked if they were all ok, they were alive and in shock but I think the natural thing to say is yes. He requested them to leave the scene telling them he would be in trouble and could lose his livelihood, he stated to them the car had malfunctioned. I believe his statements to them were seemingly to cover himself.

I am assuming the car is a write off, but if not, then you need to arrange for it to be inspected by my colleague, Jon Edwards, before you continue to use it. Otherwise you needs to transfer the plate across to another vehicle. If you can liaise with Jon about this please.

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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From: Simon Setters [REDACTED]
Sent: 23 October 2021 10:21
To: Cox, Steve <Steve.Cox@torbay.gov.uk>
Subject: Re: Road Traffic Accident

Good morning.

The statement from the nurse in question, do I get her to email that to you at this address?

Regarding the views of the parents of one of the passengers involved in the accident, obviously this is fresh information to me. As mentioned the police absolved me from any blame whatsoever, so if I'm able to get a report from them as well, where would I get them to send that?

Sent from Yahoo Mail on Android

On Fri, 22 Oct 2021 at 8:05 pm, Cox, Steve

<Steve.Cox@torbay.gov.uk> wrote:

Dear Mr Setter

Thank you for your reply to my previous email.

I am writing to inform you that it is my plan to include the following matters in a committee report for presentation to Licensing Committee at a future date, though I would anticipate this to be the 18th or 25th November 2021. These are

The 12 points that will be added to your licence

The allegation of that you were undertaking a sexual act which was witnessed by minors

The road traffic incident near Ipplepen

The purpose of advising you of this, is to advise you that I will be including information from one of the parents of the young people involved in the accident, which provides a differing view to your explanation, and a statement from the gentleman who witnessed you in the car, and says you were naked. Clearly you have already kindly submitted your view of events in both cases, however this gives you the opportunity to submit any additional information for inclusion within that report, such as a statement from the nurse who was checking on the medical matter, as you advised us.

Can I stress anything you provide us with, will form part of the committee report and it will be for committee and committee alone to review what is presented to them and make a decision. Officers are there simply to present what has been provided to them during their enquiries, in in this case my enquiries.

I am on leave next week, 25th-29th Oct, but if you can let me have anything by **Sunday 31st October 2021** and I will include this on my return.

Once the report is written and published I will ensure you have sight of a copy or a link to our webpage.

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



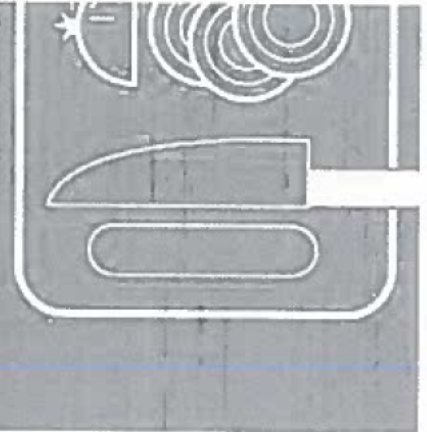
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STATEMENT FROM PASSENGER'S MOTHER WITH MY RESPONSES IN BOLD TYPE

My daughter and her friends picked up this taxi from waterfront in Torquay perhaps around 12.30 am Weds morning, I expect she may be able to give a clearer time in due course. It wasn't a straight forward journey back to the holiday cottage as the taxi didn't know where it was and they did get lost.

Passenger initially gave me the wrong address. Using the address I was given via Satnav, we ended up at an address in Harbertonford, approximately 8 miles from what was the proposed final destination. Upon arrival in Harbertonford, passenger then realised she had given me the wrong address.

They eventually made it to almost their destination, they were travelling down the lane (unnamed – comes off of Edgelands Lane at Biltor Cross towards Ambrook) that leads to the cottages at Newhouse Barton, this is a narrow typical Devon rural farm lane. The driver was driving too fast in my daughter's opinion for the road (National speed limits may apply, however we all know you can not drive safely at speed down these lanes). She passed her driving test herself just a month ago and so is acutely aware at the moment of the drivers driving style and of speeds. My daughter was sat in the middle of the back seat. All four of them had their seat belts on.

I was not driving at speed due to foggy conditions and not being familiar with the area (certainly not more than 20 mph).

My daughter said she knew he was going too fast and told him there was a bend coming up, feeling worried.

At no time did any passenger tell me that I was going too fast. I fail to understand how the daughter could possibly know that there was a bend coming up if she was not familiar with the area (as proven by the fact that we initially travelled to Harbertonford) and the fact that visibility was so poor due to foggy conditions.

He didn't slow down and I guess almost immediately then crashed, rolling the vehicle due to the speed travelled at.

As mentioned above, the car was not travelling at speed. Due to poor visibility the car rolled up a raised bank on the left hand side of the road with gravity causing the car to roll over. Speed was not a factor in this. The fact that the air bags did not go off proves that there was no impact. I understand that air bags only go off when vehicles are travelling at more than 30 mph.

Police in attendance agreed that visibility was very poor due to foggy conditions. (Police report with Log number to be forwarded in due course).

The car came to a stop on its roof, which was a glass roof and smashed in but held together so to speak so it didn't shatter on them. My daughter and her three friends were all able to get their seat belts off, albeit falling onto their heads and bracing themselves within the vehicle, and climb out of one of the back doors of the car.

Neither passengers nor driver fell onto their heads due to them all wearing seatbelts. Ambulance service checked both driver and passengers with no reports of injuries to anyone. If there was even a suggestion of a head injury, the Ambulance service would not have let any of us go without a check up in hospital.

The driver also got out. It's all naturally quite a blur for XXXX. She recalls the engine was still on and tyres still rotating around at speed. There was smoke coming from the car which frightened her as she thought it may go up so she seemingly climbed back into the car herself to switch off the engine thinking on the spot that this was the right thing to do to prevent the car catching fire. The time was around 1.15 am.

Naturally we were all in shock after getting out of the vehicle. There was no smoke coming from vehicle with no smell of burning. I have no recollection of anyone climbing back into the vehicle to switch off the engine. I thought that I switched it off.

The driver asked if they were all OK, they were alive and in shock but I think the natural thing to say is yes. He requested them to leave the scene telling them he would be in trouble and could lose his livelihood, he stated to them the car had malfunctioned. I believe his statements to them were seemingly to cover himself.

I did not ask them to leave the scene. They asked if I needed them to stay. They walked to their cottage. They phoned me from the cottage about 20 minutes later to see if I was OK. When I asked them how they all were, they said 'We're all fine, we're doing shots'. (I can retrieve this phone conversation if required). At this point the police arrived and breathalysed me with a negative result.

Passengers returned later to give statements to the police and were checked over by Ambulance services in attendance. Ambulance services gave 'all clear' to us all and allowed passengers to return to the cottage. As stated previously, there is no way passengers would have been allowed to depart the scene, especially on foot, if there was any suggestion of any type of any injury, and certainly not a head injury.

Whilst I was being questioned by the police they confirmed to me that the passengers' statements corroborated with mine.

Statement saying 'I will be in trouble and I could lose my livelihood' is a blatant lie as is the suggestion that I told them that the car had malfunctioned. (I know very little about mechanics of vehicles).

Police called me a few days later to see if I was OK and to absolve me of any blame regarding the accident, and obviously that no charges would be made against myself. I can provide evidence of this call if required.



5th November 2021

To Whom It May Concern

Allegation against: Mr Simon Stotter

Personal Statement:

I wish to give my account of events which occurred on Saturday 2nd October. I can confirm that I am a close family friend and was in Mr Simon Setters Taxi on Easterfield Lane, Torquay from around 22:45 – 23:15 on the 2nd October 2021.

I was having a family meal in Torquay on 2nd October when I received a call from Mr Simon Setters in a panic about a lump he had found. As I work within Oncology at Torbay hospital, he thought I was best placed to alleviate his concerns of cancer. I advised him that he should make an appointment with his GP but due to his high level of anxiety, I agreed that he could collect me from the restaurant in Torquay. Due to the sensitive nature and location of this lump, I suggested that we should drive somewhere secluded before I could take a look.

I strongly disagree with the allegations that have been made against Mr Setters, and I can confirm that there were no sexual acts taking place and this was purely a medical examination.

I am indeed very upset about this situation and hope that private and confidential statement will stop the slanderous allegations that have been made against myself and Mr Setters.

Thank you



#ITSOKAYTOTALK

Torbay and South Devon 
NHS Foundation Trust

Edwards, Jonathon

From: [REDACTED]
Sent: 18 November 2021 16:35
To: Cox, Steve
Subject: Re: Email statement

Hi Steve

Firstly I am not a doctor, nor am I a trained nurse/professional, I do hold a 16 hour first-aid ticket including wilderness 1st Aid.

I can only outline again what I put in my original email that whilst leaving the Scouts campsite somewhere between 10:30 and 10:45 on a Saturday night the occupants of the Taxi (internal lights on seats reclined) were undressed and were conducting what looked to be sexual acts.

As for a medical investigation I'm not sure, I have never had to undergo a medical investigation in a taxi, hidden up a lane, on a Saturday evening at 10.30pm outside the gates of a children's campsite. As a passing observation, Surely any professional medical investigation would be better taken with the ability of electric lights and possibly indoors? Normally outdoors medical investigations in that type of location, at that time of night must have been medial emergency/ 1st Aid requirement, not a planned medical inspection by a professional person. Incidentally as a first aider there are very few occasions to remove all clothing off the casualty and non that I've been trained on where both people would need to be naked.

My thoughts on what I had just witnessed, were only confirmed further on my return leg of the journey with the empty minibus to collect more goods and people from the campsite when we had to leave the campsite that fateful night, as passing the taxi again some 7 to 10 minutes later the lady was now sat, bolt upright, dressed, staring into space (not looking at or talking with the driver) with somewhat of a sheepish look on her face(internal car lights now off). Whereas before both front seats were laid down, obviously I don't know what type of medical investigation was taking place however, it was commented on by some children to me and their parents, about the naked people in the taxi.

Kind regards

[REDACTED]

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On 18 Nov 2021, at 15:17, Cox, Steve <Steve.Cox@torbay.gov.uk> wrote:

Dear Mr [REDACTED]

I am writing further to the email sequence below. The purpose for writing is that the said Driver has contacted the person in the vehicle and she has provided a statement on headed paper, that she was undertaking a medical inspection, something it certainly appears she is qualified to do. Clearly she would not need to be naked to do this, so I am initially seeking confirmation from you, as per your statement below, that she was naked in the vehicle.

On confirmation from you, then I plan to complete my committee report with the current plan to present this to Licensing Sub-Committee on the 9th December.

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



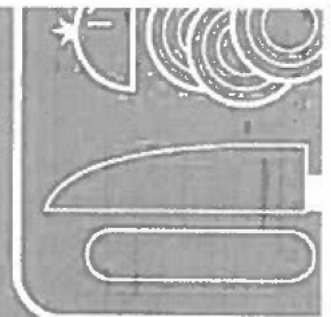
Food Safety and Licensing

 @TorbayFSL



Community Safety

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



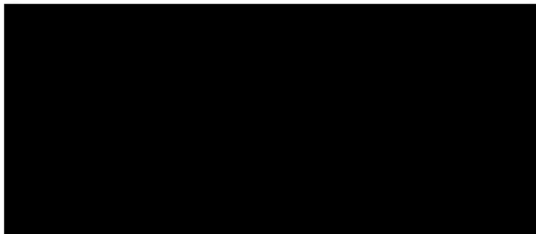
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From: [REDACTED]
Sent: 23 October 2021 06:55
To: Cox, Steve <Steve.Cox@torbay.gov.uk>
Subject: Re: Email statement

Hi Steve

[REDACTED] are fully aware of these proceeding and are happy to stand by our previous statement to you. Parents have asked what the council are doing about this? I will pass on information to them as I receive it from your office.

Best wishes



“Amazing Leaders Delivering An Inspiring Program to Young People With The Skills For Life”

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On 22 Oct 2021, at 19:41, Cox, Steve <Steve.Cox@torbay.gov.uk> wrote:

Dear Mr [REDACTED]

Thank you for the information you have supplied Shaun Rackley with regard to the said driver, it will form one piece of information that we will present to Licensing Committee, in the coming month. The purpose of writing is simply confirm that a

hearing will take place and your redacted statement, (i.e. we will take your name out of it), will be added to the committee report. I understand you are happy with that, but if you could just confirm that is still the case.

My plan is to write the committee report the first week of November, on my return from leave.

<image001.jpg>

<image002.jpg>

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From: [REDACTED]
Sent: 04 October 2021 10:42
To: Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>
Subject: Re: Email statement

Hi Sean

As a scouting leader using Easter Field Lane and the Torbay district camp site is a regular occurrence for myself and for hundreds of local children throughout the year, thousands of children throughout the summer. On Saturday evening it was necessary to use the lane for the purposes of moving children late at night 11pm ish as there was A problem with Southwest water and no water supply to the campsite, It was necessary to use the scout minibuses and leaders cars to move the children round about 11 o'clock at night to a suitable Scouting location/venue, allowing the young people to carry on their scouting activities for the weekend.

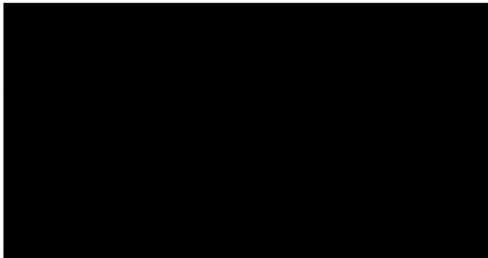
At the top gate of the campsite I was met by a taxi parked up with a lit top sign on (Hackney carriage) A dark-coloured vehicle with door plates on of 292292- surprisingly to me all the interior lights of the Hackney carriage were on, with all car headlights lit up illuminating the area, there was a man and a lady completely naked carrying out sexual acts. I had no choice at this particular point but to commit to driving past the license vehicle of Torbay Council, with lewd acts taking place with a minibus full of children looking on to see what was happening outside the window, with all the lights on in such a dark lane!

Whilst I have no personal malice for the driver I think that the location was completely inappropriate outside a children's campsite, the plate on the rear of the vehicle was a blue Hackney carriage Torbay Council plate of [REDACTED], I will forward to you shortly a photo that I took on the

second leg of the journey, as two journeys were needed with a 17 seater minibus and leaders cars, however, the Hackney carriage was still in attendance, Although at this point the lady had returned to the front seat, dressed herself, and was looking somewhat sheepish, the male driver had also returned to the front seat, now clothed.

As the young people and adults within scouting were talking about this as a conversational piece, I would like a written response back from the council as to what has happened in making sure that this is not likely to happen again. This I can then take back to the parents to assure them that the council are listening to the people of Torbay.

Best wishes



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On 4 Oct 2021, at 10:15, Rackley, Shaun
<Shaun.Rackley@torbay.gov.uk> wrote:

Hi 

Please reply to me at this email address with all the details
and I will pick the matter up.

Thanks

Shaun

<image001.png>

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

www.torbay.gov.uk

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