



## Minutes of the Licensing Sub-Committee

24 March 2011

-: Present :-

Councillors Addis, Excell and Pentney

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### 638. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

### 639. Minutes

The Minutes of the meetings of the Sub-Committee held on 3 and 10 March 2011 were confirmed as a correct record and signed by the Chairman.

### 640. Suspension of Hackney Carriage Driver's Licence - Mr Christopher Mallett

Members considered Report 80/2011 which sought a suspension of a Hackney Carriage Driver's Licence in respect of Mr Christopher Mallett.

Written representations received from:

Name	Details	Date of Representation
Parking Operations Officer	Representation regarding illegal parking by taxis in Torbay.	28 January 2010
Police	Representation confirming events over a nine month period on The Strand, Torquay involving taxi drivers.	4 February 2010
Public Transport Officer	Briefing paper regarding taxi parking on The Strand, Torquay and the impact on bus drivers.	27 January 2010
Operations Manager – Torbay Stagecoach South West	Representations confirming ongoing problems with taxis parking at The Strand, Torquay bus stops.	28 January 2010, 9 February 2007, 4 July 2006
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers updating them on the current	16 January 2009

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	situation regarding the taxi ranks and bus bays on the harbour side.	
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers updating them on the current situation regarding the taxi ranks and bus bays on the harbour side.	3 April 2009
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Driver's regarding the non-observation of Road Traffic Orders by some Hackney Carriage Drivers.	4 December 2009
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers informing them of the arrangements for taxi ranks at Vaughan Parade and The Strand, Torquay.	31 August 2010
Parking Operations Officer	A photograph showing a taxi parked illegally.	15 October 2010
Licensing Support Officer	Letter sent to Mr Mallett regarding illegal parking on Union Street, Torquay.	25 October 2010
Parking Operations Officer	Four photographs showing a taxi parked illegally, one enforcement report and two extracts of the Parking Operations Officer notebook.	20 October 2010 26 October 2010 2 February 2011 8 February 2011
Licensing Support Officer	Letter sent to Mr Mallett regarding illegal parking on Union Street, Torquay.	9 February 2011
Respondent	Email from Mr Christopher Mallett responding to a letter sent by the Licensing Support Officer, dated 9 February 2011, explaining the circumstances of the incidents.	14 February 2011
Licensing Support Officer	Two Torbay Taxi Rank Reports, table detailing observations of Taxi's parked in a Rank from 22:59 to 23:43 and 00:22 to	18 February 2011 19 February 2011

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	00:37.	
	Plan of Road Traffic Orders in place on Torquay harbour side.	
	Spreadsheet showing percentage of Taxi Rank space on Torquay harbour side.	
	Hackney Carriages and Private Hire Vehicles Byelaw 8.	

Oral representations received from:

Name	Details
Environmental Health Manager (Commercial)	The Environmental Health Manager (Commercial) outlined the Council's case, as set out in Report 80/2011.
Respondent	The Respondent explained the circumstances surrounding his breaches of the Road Traffic Orders and byelaw and responded to Members' questions.

Reason for Decision:

That Mr Christopher Mallett's Hackney Carriage Driver's Licence be suspended for a period of seven days on the ground of 'any reasonable cause', as in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

Reason for Decision:

Having carefully considered all the written and oral Representations put before the Sub-Committee, Members resolved this ground to be established following the number of warning letters that had been issued from the Principal Safety and Licensing Officer (dated 16 January 2009, 3 April 2009, 4 December 2009 and 31 August 2010) and the Licensing Support Officer (dated 25 October 2010 and 9 February 2011) raising awareness of the concerns of public safety by drivers parking illegally in Torquay. Mr Mallett confirmed that he had received these warning letters and was aware of point 19 of Section 1, Part B of the Hackney Carriage and Private Hire Drivers Handbook which states:

'The number of vehicles stationed at any rank must not exceed the number for which the rank is appointed at any time. If a rank is full at time of a vehicles' arrival at a rank then the driver must proceed to the next available rank.'

Members noted Mr Mallett's oral and written admission, as dated 14 February 2011 that he had parked not in accordance with the Road Traffic Orders or Byelaw 8 and

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that he had not followed the direction, as specified in the Hackney Carriage and Private Hire Drivers Handbook

In concluding Members were satisfied that Mr Mallett had been given sufficient warnings but despite this had parked illegally on 15 October 2010, on two separate occasions on 20 October 2010, on 26 October 2010, on 2 February 2011, on two separate occasions on 8 February 2011, and 18 February 2011 and again on 19 February 2011 whereby he caused an obstruction to the highway.

Members felt that the suspension was a proportionate and necessary response to the breach of the Road Traffic Orders and Byelaw 8 in an attempt to ensure public safety.

**641. Suspension of Hackney Carriage Driver's Licence - Mr Albert Boyne**

Members considered Report 81/2011 which sought to suspend a Hackney Carriage Driver's Licence in respect of Mr Albert Boyne.

Written representations received from:

Name	Details	Date of Representation
Parking Operations Officer	Representation regarding illegal parking by taxis in Torbay.	28 January 2010
Police	Representation confirming events over a nine month period on The Strand, Torquay involving taxi drivers.	4 February 2010
Public Transport Officer	Briefing paper regarding taxi parking on The Strand, Torquay, and the impact on bus drivers.	27 January 2010
Operations Manager – Torbay Stagecoach South West	Representations confirming the ongoing problems with taxis parking at The Strand bus stops.	28 January 2010 9 February 2007 4 July 2006
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers regarding the use of The Strand, its taxi rank, the adjacent bus bay and the roundabout.	16 January 2009
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers updating them on the current	3 April 2009

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	situation regarding the taxi ranks and bus bays on the harbour side.	
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers regarding the non-observation of Road Traffic Orders by some Hackney Carriage Drivers.	4 December 2009
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers informing them of the arrangements for taxi ranks at Vaughan Parade and The Strand, Torquay.	31 August 2010
Parking Operations Manager	Taxi/Private Hire Parking Report Form.	7 October 2010 and 15 October 2010
Parking Operations Manager	Three photographs showing taxi parked illegally.	7 October 2010 and 15 October 2010
Licensing Support Officer	Letter sent to Mr Boyne regarding illegal parking on Union Street, Torquay.	19 October 2010
Licensing Support Officer	Notes from Parking Operations Officer Notebook.	8 February 2011
Licensing Support Officer	Letter sent to Mr Boyne regarding queuing/parking offence and inviting his comments.	9 February 2011
	Hackney Carriages and Private Hire Vehicles Byelaw 8.	
Respondent	Letter explaining the circumstances of the incidents.	Received 18 February 2011

Oral representations received from:

Name	Details
Environmental Health Manager (Commercial)	The Environmental Health Manager (Commercial) outlined the Council's case, as set out in Report 81/2011 and the reasons for recommending that the Respondent be suspended for three days.

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Respondent Mr Boyne explained the circumstances surrounding his breaches of the Road Traffic Orders and Byelaw and confirmed that he had received the warning letters which were issued on 16 January 2009, 3 April 2009, 4 December 2009 and 31 August 2010.

Respondents Response to Representations:

With the Licensing Sub-Committee's consent, the Respondent circulated a photo showing a security van parking on the taxi rank on Union Street rather than parking in the designated loading bay.

Decision:

That Mr Albert Boyne's Hackney Carriage Driver's Licence be suspended for a period of three days on the ground of 'any other reasonable cause', as in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

Reason for Decision:

Having carefully considered all the written and oral Representations put before the Sub-Committee, Members resolved this ground to be established following the number of warning letters that had been issued from the Principal Safety and Licensing Officer (dated 16 January 2009, 3 April 2009, 4 December 2009 and 31 August 2010) and the Licensing Support Officer (dated 19 October 2010 and 9 February 2011) raising awareness of the concerns of public safety by drivers parking illegally in Torquay. Mr Boyne confirmed that he had received these warning letters.

Members noted Mr Boyne's oral and written admission, as received on the 18 February 2011 that he had parked not in accordance with the Road Traffic Orders or Byelaw 8 and were satisfied by the evidence given that despite these warnings Mr Boyne had parked illegally on 8 February 2011 and had been written to on the 19 October 2010 about a previous incident of illegal parking in the same location.

Members felt that the suspension was a proportionate and necessary response to the breach of the Road Traffic Orders and Byelaw 8 in an attempt to ensure public safety.

**642. Application for Private Hire Driver's Licence**

Members considered an application for a Private Hire Drivers Licence as set out in exempt Report 82/2011.

Written representations received from:

Name	Details	Date of Representation
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Applicant	Application from the Applicant including two letters from Strathclyde Police to North Lanarkshire Council.	28 September 2010 7 November 2007 7 November 2007
Applicant	Criminal Records Bureau check.	19 October 2010
Licensing Support Officer	Letter refusing the Application for a Private Hire Drivers Licence.	2 November 2010
Applicant	Letter from the Applicant explaining the circumstances of his criminal convictions and the changes he has made to his life since 2004.	8 November 2010
Licensing Support Officer	Letter to the Applicant setting out information required from North Lanarkshire Council.	15 November 2010
North Lanarkshire Council	Letter confirming the details of the Licences held by the Applicant.	1 February 2011
Environmental Health Manager (Commercial)	Letter to the Applicant informing him that information had been received from North Lanarkshire Council. The letter also advised the Applicant of Torbay Council's position regarding the Taxi Policy in relation to convictions and as such, his application will go before a Licensing Committee for a decision.	24 February 2011

Oral representations received from:

Name	Details
Environmental Health Manager (Commercial)	The Environmental Health Manager (Commercial) outlined the Council's case, as set out in exempt Report 82/2011.
Applicant	The Applicant outlined the circumstances surrounding his criminal convictions and the reasons he wished to apply for a Private Hire Drivers Licence. The Applicant also responded to Members questions.

Decision:

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That the Applicant, as named in exempt Report 82/2011 be granted a Private Hire Drivers Licence.

Reason for Decision:

Having carefully considered all the written and oral Representations Members resolved to grant the Private Hire Drivers Licence, despite it being a departure from the Council's Policy and not in accordance with the Officers recommendation, for the following exceptional reasons:-

There have been no recorded criminal convictions since 11 February 2004. Although Members did note the significant number of offences for dishonesty, there were no offences of physical violence against a person or offences of a sexual nature.

The Applicant has held a Taxi Drivers Licence, as granted by North Lanarkshire Council since 29 August 2007 and a Private Hire Operators Licence, as granted by North Lanarkshire Council since 15 December 2007, as stated in correspondence from North Lanarkshire Council dated 1 February 2011. Members also noted the absence of evidence to suggest incidents of concern had occurred since the granting of these Licences.

Members were reassured by the Applicant's oral submission that he no longer drinks alcohol and has a supportive family which he wishes to be reunited with by seeking employment in this area.

In reaching this decision, Members principal reason for granting this application was to give the Applicant an opportunity of a second chance.