

# TORBAY COUNCIL

**Please reply to:** Shaun Rackley  
Licensing,  
Town Hall, Castle Circus,  
Torquay,  
TQ1 3DR

**My ref:** SRU/266206

**Your ref:**

**Telephone:** 01803 208025

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

**Website:** www.torbay.gov.uk

Mr D Green

(address removed)

**Date:** 6<sup>th</sup> October 2021

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Dear Mr Green,

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

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

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

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

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

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

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

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



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

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

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

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

Yours sincerely

Shaun Rackley  
Licensing Officer

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

**Section 77 Appeals.**

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

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

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

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

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

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

(ii) that person may carry on that business.

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

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

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

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

**S300 Appeals and applications to courts of summary jurisdiction**

(1) Where any enactment in this Act provides—

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

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

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

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

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

**S301 Appeals to quarter sessions against decisions of justices.**

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

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

**S302 Effect of decision of court upon an appeal.**

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