



Minutes of the Licensing Sub-Committee

22 October 2015

-: Present :-

Councillor

Councillors Cunningham, Manning and Thomas (D) (In place of Ellery)

29. Election of Chairman/woman

Councillor Manning was elected as Chairman for the meeting.

30. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Thomas D instead of Councillor Ellery.

31. Minutes

The Minutes of the meeting of the Sub-Committee held on 17 September 2015 were confirmed as a correct record and signed by the Chairman.

32. Taxi Driver Report

Members considered a report concerning a Torbay Council Licensed Driver who has been found guilty for an offence of violence. Members considered whether Mr Boyle remains a 'fit and proper person' to continue to hold a Torbay Council Driver's licence.

Members were advised that Mr Boyle had been convicted of Assault by Beating on 20 August 2015 and had advised Torbay Council of the outcome of the court sentence on 21 August 2015, as required by the Council's Hackney Carriage and Private Hire Policy.

Members noted that the offence was not committed whilst Mr Boyle was working.

Members considered the mitigating circumstances put forward by Mr Boyle.

Members noted that Mr Boyle is the current Chairman of the local Taxi Association.

Decision:

That Mr Jud Boyle be formally warned in this instance.

Reason for Decision:

In coming to that decision, Members carefully considered having been charged with the responsibility to determine the driver's 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 the Respondent alone. An unequivocal and unanimous answer by Members to this question was 'yes.'

In determining that Mr Jud Boyle remained a 'fit and proper person' to be a licensed driver by Torbay Council, Members were reassured by his assertions of future conduct, that the offence had not taken place whilst he was on duty as a licensed driver, that he had been a Licensed Driver for 16 years with no real cause of concern, that he had an 11 year non-fault driving record, that he had kept Torbay Council's Licensing Department updated throughout the Court proceedings, the positive motion of confidence in him by members of the Association and the character reference given by Mr John Cree.

In concluding, Members noted that the previous incident during November 2013 which resulted in four drivers licensed by Torbay Council, of which Mr Jud Boyle was one and at that time was the victim, and the matter before them today, involved the same individual and not members of the public. Given the restraining order in place and the assertions of future conduct, Members were reassured that such incidents would not occur in the future.

33. Taxi Driver Report

Members considered a report which concerned a Torbay Council Licensed Driver who had pleaded guilty and been convicted of an offence under Section 3 of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988, namely, 'driving without due care and attention.'

Members considered whether Mr Ryan remains a 'fit and proper person' to continue to hold a Torbay Council Driver's licence.

The Senior Licensing Officer advised Members that Mr Ryan had been fined £500 with £285 additional costs and issued with 7 penalty point which was reported in the Local Press. Mr Ryan had not reported his matter to Torbay Council, contrary to the requirement in the Council's Hackney Carriage and Private Hire Policy which he had received as part of the licensing process.

The Senior Licensing Officer advised Members that should the decision be for Mr Ryan to retain his Torbay Council issued Driver's Licence, then it is recommended that Mr Ryan undertakes a Driving Standard Assessment within 3 months of the Licensing Sub-Committee hearing date, as set out in the Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy.

Members heard from Mr Ryan and the circumstances surrounding the incident and asked, with the assistance of Google Maps, for confirmation of the location of the incident.

Decision:

That Mr Anthony Ryan's Torbay Council Drivers Licence be suspended with immediate effect, until such time that he has successfully completed a RoSPA (The Royal Society for the Prevention of Accidents) ADVANCED DRIVING TEST, as approved by the Driver and Vehicle Licensing Agency. The end date to which this test must successfully be completed is the 21 January 2016. Failure to successfully complete the test by the said date will result in Mr Anthony Ryan's Licence being revoked with immediate effect at midnight on the said date.

That Mr Anthony Ryan reads and familiarises himself with contents of Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy (May 2013) , as issued to him and that he keeps a copy of the said Policy in the licensed vehicle at all times when on duty for future reference.

Reason for Decision:

Having carefully considered all the written and oral Representations, Members resolved to suspend Mr Anthony Ryan Torbay Council Drivers Licence, as they could not be satisfied that he remained a 'fit and proper' person to hold such a licence.

In coming to that decision, Members carefully considered having been charged with the responsibility to determine the driver's 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 the Respondent alone. An unequivocal and unanimous answer to this question by Members', was 'no.'

In determining that Mr Anthony Ryan does not remain a 'fit and proper person' to be a driver licensed by Torbay Council and noting their primary duty which is to ensure public safety, Members had serious concerns about Mr Ryan's driving ability and the unfathomable error of judgement made by him whilst carrying out his duties as a driver licensed by Torbay Council. Such concerns were borne out of the fact that Mr Ryan had, by his own admission, carried out a u-turn on the A30 dual carriage way at approximately 01.00 and ended up driving towards oncoming traffic in the carriages fast lane, whilst ferrying a customer. Members noted that this action had caused an oncoming vehicle to swerve to avoid hitting his vehicle and resulted in Mr Ryan carrying out a second u-turn on the same dual carriage way to go to the aid of that driver who he had caused to crash in to the central reservation.

In considering public safety further, Members resolved that the error of judgement made by Mr Ryan could easily have resulted in a number of fatalities and that he was very lucky not to be faced with more serious consequences.

Members had grave concerns that Mr Ryan appeared to take little or no responsibility for his actions and showed no remorse, instead blaming others and the electronic devices he had on board and even when challenged, he did not depart from this belief but instead stated those were the facts.

Members gave lengthy and serious deliberation in revoking Mr Ryan's drivers licence with immediate effect but subsequently resolved to allow him the opportunity to undertake the driving course, as stated in the decision and that if passed successfully, he would in their opinion become a 'fit and proper' person to be a licensed driver by Torbay Council. In determining the said course, Members did consider the course proposed by the Licensing Officer, as set out in the Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy but resolved that in light of all the circumstances before them, this course did not go far enough to give them the reassurances they needed in upholding their duty of ensuring public safety.

In determining the second part of their decision, Members were concerned that Mr Ryan had not reported his conviction to Torbay Council, contrary to the requirement in Torbay Council's Hackney Carriage and Private Hire Policy which he had been previously issued with. When asked where his copy of this Policy was, Mr Ryan responded to say it was in a folder at home somewhere and when asked why he did not report the conviction, Mr Ryan responded to say that he forgot he had to and thought the Operator would, because they were aware of the incident. Members found these responses lacked any responsibility or regard for the seriousness of the Policy and fell well below that which they could reasonably expect of a driver licensed by Torbay Council.

Chairman/woman