



Report No: **81/2011** Public Agenda Item: **Yes**

Title: **Suspension of Hackney Carriage Driver's Licence – Mr Albert Boyne**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **24 March 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

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## **1. What we are trying to achieve**

- 1.1** The report concerns a Hackney Carriage Driver who despite several warnings has failed to comply with the Road Traffic Orders and Byelaws of Torbay Council whilst going about his business.

## **2. Recommendation(s) for decision**

- 2.1** It is recommend that:

Mr Albert Boyne be suspended for 3 days.

## **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** Section 61 Local Government (Miscellaneous Provisions) Act 1976 gives the Local Authority the power to suspend or revoke a Hackney Carriage Drivers Licence for 'any other reasonable cause'.
- 3.3** This report concerns Hackney Carriage Drivers queuing and parking in areas in Torbay covered by Road Traffic Orders, as well as causing an obstruction to other road users. This has resulted in complaints from The Police, other road users, members of the public, as well as the general concerns Officers have about safety. This is particularly prevalent on Torquay harbour side but applies elsewhere too.

- 3.4 Although a number of different measures had been tried and three letters sent to all Hackney Carriage Drivers during 2009, problems were not resolved. In an attempt to address this, the Officer working party, with attendees from Parking Enforcement, Highways, Licensing, Transportation and the Police met again. Although the changes proposed related to the harbourside and so are not covered in this report, the result was that another letter was sent to all Hackney Carriage Drivers dated 31<sup>st</sup> August 2010. Although this letter refers mainly to the harbourside the last paragraph clearly refers to compliance with Road Traffic Orders in other areas as well.
- 3.5 Despite these letters, Mr Boyne HC018, vehicle registration AF57 UJD was witnessed by a Parking Enforcement Officer at 12.58 on the 7<sup>th</sup> October 2010 parked illegally on double yellow lines with the rear of the vehicle sticking out into the road, Union Street, Torquay. There was no passenger seen. At 13.49 on the 15<sup>th</sup> October 2010 a Parking Operations Officer witnessed the same vehicle parked on an area where pedestrians cross, with the engine off, waiting to get into the rank, Union Street, Torquay. A warning letter dated 19<sup>th</sup> October 2010, was sent to Mr Boyne about these incidents.
- 3.6 At 13.46 on the 8<sup>th</sup> February 2011 a Licensing Support Officer witnessed Mr Boyne in vehicle HC018, vehicle registration number AF57 UJD illegally parked on double yellow lines in the loading bay, opposite Natwest Bank, Union Street, Torquay. It should be noted that Mr Boyne had been previously warned on several occasions since October 2010 about illegal parking in this area. This is in contravention of both the Road Traffic Order and Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles Byelaws.

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

**Frances Hughes** Executive Head Community Safety

## Supporting information to Report 81/2011

### 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 Section 61 Local Government (Miscellaneous Provisions) Act 1976 gives the Local Authority the power to suspend or revoked a Hackney Carriage Drivers Licence for 'any other reasonable cause'.
- A1.3 This report concerns Hackney Carriage Drivers queuing and parking in areas in Torbay covered by Road Traffic Orders, as well as causing an obstruction to other road users. This has resulted in complaints from The Police, other road users, members of the public, as well as the general concerns Officers have about safety. See Appendix 1. This is particularly prevalent on Torquay harbour side but applies elsewhere too. This biggest area for complaints and the concerns of Officers is around the bus bays and taxi ranks on The Strand and on The Clocktower roundabout. However there have been significant concerns relating to the Union Street Taxi Rank and the Fleet Street (GPO) roundabout taxi rank too. Torbay Council as the Licensing, Highways and Parking Enforcement Authority needs to exercise a duty of care in these matters, as informal attempts to resolve the issue have been unsuccessful.
- A1.4 Although a number of different measures had been tried and three letters have been sent to all Hackney Carriage Drivers during 2009 (see Appendix 2), resulting in a number of Drivers having their Drivers Licences suspended, problems were not resolved. In an attempt to address this, the Officer working party, with attendees from Parking Enforcement, Highways, Licensing, Transportation and the Police met again. Although the changes proposed related to the harbourside and so are not covered in this report, the result was that another letter was sent to all Hackney Carriage Drivers dated 31<sup>st</sup> August 2010. Although this letter refers mainly to the harbourside the last paragraph clearly refers to compliance with Road Traffic Orders in other areas as well. See appendix 3.
- A1.5 Despite these letters, Mr Boyne HC018, vehicle registration AF57 UJD was witnessed by a Parking Enforcement Officer at 12.58 on the 7<sup>th</sup> October 2010 parked illegally on double yellow lines with the rear of the vehicle sticking out into the road, Union Street, Torquay. There was no passenger seen. At 13.49 on the 15<sup>th</sup> October 2010 a Parking Operations Officer witnessed the same vehicle parked on an area where pedestrians cross, with the engine off, waiting to get into the rank, Union Street, Torquay. A warning letter dated 19<sup>th</sup> October 2010, was sent to Mr Boyne about these incidents. See Appendix 4.
- A1.6 At 13.46 on the 8<sup>th</sup> February 2011 a Licensing Support Officer witnessed Mr Boyne in vehicle HC018, vehicle registration number AF57 UJD illegally parked on double yellow lines in the loading bay, opposite Natwest Bank, Union Street, Torquay. Attached is a copy of the Licensing Support Officer's notebook. See Appendix 5. It should be noted that Mr Boyne had been previously warned on several occasions since October 2010 about illegal parking in this area.
- A1.7 A letter was sent to Mr Boyne dated 9<sup>th</sup> February 2011 advising him that he had

contravened both the Road Traffic Orders and Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles inviting his comments. See Appendix 6.

A1.8 A copy of Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles is attached at Appendix 7.

A1.9 A letter of response was received from Mr Boyne on the 16<sup>th</sup> February 2011. See Appendix 8.

A1.10 In light of the offences it is recommended that Mr Boyne has his Hackney Carriage Drivers Licence suspended for 3 days. A copy of the report and an accompanying letter was hand delivered to his address.

A1.11 There is a right of Appeal. Any Appeal would be to the Magistrates' Court within 21 days from the date of a Notice being sent out following the decision.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

A2.1.1 There are no significant risks if the recommendation is agreed. The potential risks to road users would be reduced by agreeing the recommendation. However, there is the potential for an Appeal to the Magistrates' Court which may incur a financial cost.

A2.1.2 If the recommendation is refused, then the risk may be greater in the long term, as the issue of ignoring the Road Traffic Orders and Byelaw may continue with the potential for further road traffic accidents or worse.

## **A3. Options**

A3.1 The options are:

- (i) to grant the suspension
- (ii) to refuse the suspension
- (iii) to suspend for a different period of time
- (iv) to revoke the drivers' licence

## **A4. Summary of resource implications**

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

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

A5.1 There are no equalities and environmental sustainability. There are potential crime and disorder issues associated with obstruction of the highway, but this approach should address those.

## **A6. Consultation and Customer Focus**

A6.1 There has been no public consultation on this matter, though the drivers are aware of the issues both from their Taxi handbook, from the letters they have received and from a Taxi Trade Association meeting.

**A7. Are there any implications for other Business Units?**

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

**Annexes**

Appendix 1a Letter from Richard Brown Parking Operations Officer dated 28<sup>th</sup> January 2010

Appendix 1b Email from the Police dated 4<sup>th</sup> Feb 2010

Appendix 1c Briefing note from Lesley Dransfield dated 27<sup>th</sup> January 2010 and from Christine Ratcliffe Operations Manager at Stage Coach dated 28<sup>th</sup> January 2010.

Appendix 2a Letter to All Hackney Carriage Drivers dated 16<sup>th</sup> January 2009

Appendix 2b Letter to All Hackney Carriage Drivers dated 3<sup>rd</sup> April 2009

Appendix 2c Letter to All Hackney Carriage Drivers dated 4<sup>th</sup> December 2009

Appendix 3 Letter to All Hackney Carriage Drivers dated 31<sup>st</sup> August 2010

Appendix 4 Enforcement sheet for 7<sup>th</sup> October 2010, 15<sup>th</sup> October 2010, three photographs and letter dated 19<sup>th</sup> October 2010

Appendix 5 Extract from Licensing Support Officers note book dated 8<sup>th</sup> February 2011

Appendix 6 Letter to Mr Boyne in respect of the offences and inviting his comments for this Committee Report dated 9<sup>th</sup> February 2011

Appendix 7 A copy of Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles

Appendix 8 Letter from Mr Boyne received 16<sup>th</sup> February 2011

**Documents available in members' rooms**

None

**Background Papers:**

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

None