



Report No: **92/2011** Public Agenda Item: **Yes**

Title: **Suspension of Hackney Carriage Driver's Licence – Mr Dariush Zarezadeh**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **21 April 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 This 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:

1. Mr Dariush Zarezadeh's Hackney Carriage Driver's Licence be suspended for 7 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 Driver's 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 and 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. It was decided at this meeting to threaten to move the Taxi's ranks from The Strand, onto Torwood Street. This raised significant concerns so officer attended a meeting with taxi drivers. The outcome of that meeting is that a trial was implemented to see if the Hackney Carriage drivers would comply with the road Traffic Orders. To help this significant enforcement took place as well. A letter was sent to all Hackney Carriage Drivers advising them of the trial and the enforcement that would take place both on the harbourside and elsewhere, see Appendix 3.
- 3.5 Despite these letters of which all were sent to Mr Zarezadeh at 10.37 on 18th October 2010 and again at 14.30 on 22 October 2010, a Parking Enforcement Officer witnessed Hackney Carriage Licence number HC 102, registration number WF57 ZUA, parked illegally on double yellow lines outside Natwest Bank, Union Street, Torquay. Mr Zarezadeh was subsequently sent a warning letter dated 28 October 2010 about these incidents.
- 3.6 At 0037 on the 19th February 2011, a Licensing Support Officer witnessed Hackney Carriage HC102, registration number WF57 ZUA, illegally parked on double yellow lines at the rear of the bus lane on the seaward side of Torquay Harbour. At the time in question a police van on an emergency call, came around the clock tower roundabout and had to move the vehicle on by the use of its sirens, as it was causing an obstruction in the highway. A letter was sent to Mr Zarezadeh regarding this incident on the 4 March 2011 and requesting an explanation.
- 3.7 The above incidents are 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 92/2011

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 Driver's 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 and 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.
- A1.4 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, as well as the GPO roundabout. Officers' concerns relate to the risk to pedestrians crossing the road, or alighting from buses, where they are away from the kerbside and being hit by a moving vehicle. There are also significant concerns about taxis obstructing the highway particularly at the exit to the roundabout and being a danger to other road users. There have been 13 road traffic accidents in the past 13 months up to December 2010 on the harbourside alone, though not all related to taxis. 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.
- A1.5 Although a number of different measures had been tried and three letters sent to all Hackney Carriage Drivers during 2009 (see Appendix 2), problems were not resolved and this resulted in a number of Drivers having their Drivers Licences suspended.
- A1.6 In a further attempt to address this, an Officer working party, with attendees from Parking Enforcement, Highways, Licensing, Transportation and the Police, met. It was decided at this meeting to threaten to move the Taxi's ranks from The Strand, onto Torwood Street. This was put to representatives of the Hackney Carriage Drivers in early August 2010. They raised significant concerns therefore Officers were invited to attend a meeting of the Taxi Trade Association.
- A1.7 The outcome of that meeting is that a trial was implemented to see if the Hackney Carriage drivers would comply with the road Traffic Orders. To help this significant enforcement took place as well. A letter was sent to all Hackney Carriage Drivers advising them of the trial and the enforcement that would take place both on the harbourside and elsewhere, see Appendix 3. Overall this approached worked well, though since the end of the trial and the reduction in enforcement some drivers have returned to being less compliant. However it is important to note the majority still comply and at this time it has been felt that to move the ranks would disadvantage those, although it still remains an option.

- A1.8 What follows are the failures of Mr Zarezadeh to comply with Road Traffic Orders both in Torquay Town Centre and on the harbourside.
- A1.9 At 10.37 on 18th October 2010 and again at 14.30 on 22 October 2010, a Parking Enforcement Officer witnessed Hackney Carriage Licence number HC 102, registration number WF57 ZUA, parked illegally on double yellow lines outside Natwest Bank, Union Street, Torquay. See Appendix 4. Mr Zarezadeh was subsequently sent a written warning letter dated 28 October 2010 about these incidents. See Appendix 5.
- A1.10 At 0037 on the 19th February 2011, a Licensing Support Officer witnessed Hackney Carriage HC102, registration number WF57 ZUA, illegally parked on double yellow lines at the rear of the bus lane on the seaward side of Torquay Harbour. At the time in question a police van on an emergency call, came around the clock tower roundabout and had to move the vehicle on by the use of its sirens, as it was causing an obstruction in the highway. See Appendix 6. A letter was sent to Mr Zarezadeh regarding this incident on the 4 March 2011 regarding and requesting an explanation. See Appendix 7.
- A1.11 The above incidents are in contravention of both the Road Traffic Order and Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles Byelaws.
- A1.12 Mr Zarezadeh responded to the letter dated 4 March 2011 by a letter dated 10 March 2011. See Appendix 8. In this letter Mr Zarezadeh has written that he pulled over to allow a Police vehicle, which had its lights and sirens on, to pass. However, a statement from the Environmental Health Manager states that this was not the case and that the vehicle was already illegally parked. See Appendix 12.
- A1.13 Attached is a map of the location, giving the Road Traffic requirements that apply to the harbourside. See Appendix 9.
- A1.14 It should be noted that the harbourside is a very busy area with many competing interests. One argument put forward by some drivers is that there is insufficient space for taxis. There is no requirement in law for Torbay Council to provide Taxi Ranks; however the Council does provide space as Taxis provide an important part of an integrated transport strategy, helping to address late night economy issues. The taxi ranks are reviewed regularly as part of the Council's unmet demand study for Hackney Carriages. If 'no waiting areas' are excluded, Taxi ranks make up 18% of the space before midnight and 26% after midnight. This does not at this time include the new rank outside The Clocktower public house. See Appendix 10.
- A1.15 A copy of Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles Byelaws is attached at Appendix 11.
- A1.16 It is recommended that Mr Zarezadeh's Hackney Carriage Drivers Licence be suspended for 7 days.
- A1.17 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 other road users and pedestrians 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 not followed, 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 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 impacts upon 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, although 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 1 Letter from Richard Brown Parking Operations Officer dated 28th January 2010

Email from the Police dated 4th Feb 2010

Briefing note from Lesley Dransfield dated 27th January 2010 and from Christine Ratcliffe Operations Manager at Stage Coach dated 28th January

2010.

- Appendix 2 Letter to All Hackney Carriage Drivers dated 16th January 2009
Letter to All Hackney Carriage Drivers dated 3rd April 2009
Letter to All Hackney Carriage Drivers dated 4th December 2009
- Appendix 3 Letter to All Hackney Carriage Drivers dated 31st August 2010
- Appendix 4 Enforcement sheet for 18th October 2010 and 2 photographs
- Appendix 5 Letter dated 28th October 2010 to Mr Zarezadeh
- Appendix 6 Enforcement sheet for 19th February 2011
- Appendix 7 Letter dated 4th march 2011 to Mr Zarezadeh
- Appendix 8 Letter from Mr Zarezadeh dated 10th March 2011
- Appendix 9 Plan of Road Traffic Orders in place on Torquay harbour side
- Appendix 10 Spreadsheet showing the percentage of Taxi Rank space on the harbour side
- Appendix 11 A copy of Byelaw 8 of Torbay Council's Hackney Carriages and Private Hire Vehicles
- Appendix 12 Statement of Stephen Cox regarding the incident at 0037 on the morning of the 19th February 2011

Documents available in members' rooms

None

Background Papers:

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

None