

Wednesday, 18 October 2023

**LICENSING SUB-COMMITTEE**

A meeting of **Licensing Sub-Committee** will be held on

**Thursday, 26 October 2023**

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

**Members of the Committee**

Councillor Douglas-Dunbar

Councillor Barbara Lewis

Councillor Tolchard

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**Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**  
To elect a Chairman/woman for the meeting.
2. **Apologies**  
To receive apologies for absence, including notifications of any changes to the membership of the Sub-Committee.
3. **Minutes** (Pages 4 - 6)  
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 14 September 2023
4. **Declarations of interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**  
To consider any other items that the Chairman decides are urgent.
6. **Application for Torbay Council Driver's Licence** (Pages 7 - 20)  
To consider a report on the fit and proper status of an applicant who seeks to hold a Torbay Council Drivers' Licence.
7. **Application for Torbay Council Driver's Licence** (Pages 21 - 36)  
To consider a report on the fit and proper status of an applicant who seeks to hold a Torbay Council Drivers' Licence.
8. **Consideration of the fit and proper status of the holder of a** (Pages 37 - 71)

**dual Hackney Carriage and Private Hire Drivers' Licence**

To consider a report that seeks consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence.

**Minutes of the Licensing Sub-Committee**

**14 September 2023**

**-: Present :-**

Councillors Barbara Lewis, Tolchard and Mandy Darling

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**10. Election of Chairman/woman**

Councillor Barbara Lewis was elected as Chairman for the meeting.

**11. Apologies**

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Mandy Darling instead of Councillor Douglas-Dunbar.

**12. Minutes**

The Minutes of the meeting of the Sub-Committee held on 3 and 17 August 2023 were confirmed as a correct record and signed by the Chairman.

**13. 35 Fleet Street, Torquay**

Members considered a report on an application for a Premises Licence/a Premises Licence in respect of 35 Fleet Street, Torquay. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Member of the Public	Letter of representation including a petition objecting to the application on the grounds of 'The Prevention of Public Nuisance', 'The Prevention of Crime and Disorder' and 'Public Safety'	15 August 2023
Member of the Public	Representation objecting the application on the grounds of 'The Prevention of Public Nuisance' and 'The Prevention of Crime and Disorder'.	17 August 2023

Additional Information:

The Applicant submitted a response to the written representations which was circulated to Members prior to the Hearing.

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined their application and responded to questions from Members.
Member of the Public	A Member of the Public outlined their representation.

### Decision

That the application for a Premises Licence in respect of 35 Fleet Street, Torquay be approved as applied for, subject to the following amendment and additional conditions:

- 1) The handling of kegs, bottles cleaning equipment, bottle disposal and similar items shall not take place in the premises outside areas between 9pm and 9am.
- 2) There shall be no more than 5 persons in the designated smoking area after 10 pm.
- 3) No drinks shall be permitted in the designated smoking area after 10 pm.
- 4) The use of the outside seating area shall cease at 10 pm and all furniture shall be cleared immediately.

### Reasons for Decision

Having carefully considered all the written and oral representations, Member sought to amend and add additional conditions, being satisfied on the evidence before them, that to do so was both appropriate and proportionate, given the close proximity of the nearby residential properties and thereby ensuring the Licensing Objective 'the Prevention of Public Nuisance' would be upheld.

Members noted concerns regarding off sales and were reassured by the Applicant's submissions in respect of their management of these sales, and the Applicant's intention that the alcohol sold would be the specialised, more expensive types of alcohol. In member opinion, this alleviates concerns that the premises would become an additional off-licence and have a detrimental impact of persons seated within the premises.

Members were satisfied that the Applicant had demonstrated experience of operating a premises in a Cumulative Impact Area, in York, in harmony with its nearby residents, and this provided Members with further confidence in the Applicant's ability

to responsibly operate a similar Premises in Torquay which is within its designated Cumulative Impact Area.

Furthermore, Members noted the absence of any objection from any of the Responsible Authority's, and that they had been consulted by the Applicants, prior to submission of their application. From this, Members deduced that there were no concerns by the Responsible Authorities in respect of this application, and this provided them with further reassurance that the application would not add to public nuisance and/or crime and disorder in the Cumulative Impact Area.

Members also noted the Interest Parties confirmation at the hearing, that some of their concerns had been allayed by the Applicant's oral submission. In doing so, Members were satisfied that the amended and additional conditions would seek to alleviate their wider concerns, once the premises was in operation.

In conclusion, Members noted that a Review of the Premises Licence can be sought by any Interested Party or a Responsible Authority, should issues arise as a result of granting the licence.

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Chairman/woman

## **TORBAY COUNCIL**

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Report No: Public Agenda Item: **Yes**

Title: **Application for Torbay Council Driver's Licence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **26<sup>th</sup> October 2023**

Key Decision: **No**

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

Contact Officer: **Shaun Rackley**  
Telephone: **01803 208026**  
E.mail: [Shaun.rackley@torbay.gov.uk](mailto:Shaun.rackley@torbay.gov.uk)

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

This report concerns an application for a Torbay Council Driver's Licence, where the Applicant does not meet Torbay Council's Hackney Carriage & Private Hire Licensing Policy (hereinafter referred to as 'the Policy') requirements. This report is to consider whether the applicant is considered a 'fit and proper person' to hold a Torbay Council Driver's Licence.

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

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony advanced at a hearing. Therefore, there is no recommendation. The options available to Members, however, are highlighted in paragraph **A3.1 of Annex 1** to this report.

### **3. Key points and reasons for recommendations**

- 3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriage and Private Hire Vehicles and drivers within Torbay.
- 3.2 Sections 51 and 59 of the 1976 Act, in conjunction with section 46 of the Town Police Clauses Act 1847, make provision for the licensing of drivers and state that a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.
- 3.3 There is no judicially approved test of fitness and propriety and therefore it is the

responsibility of Licensing Authorities to determine whether a driver, or an Applicant, is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.

- 3.4 This report follows an application made by Mr Brian Peddie on the 18<sup>th</sup> of September 2023 for a Torbay Council issued dual drivers' licence. In that application he submitted to Torbay Council, he had declared he had been convicted of a traffic offence, dated the 15<sup>th</sup> of May 2023.
- 3.5 In considering the Policy, Mr Peddie's traffic offence falls into the category of a 'major' traffic offence and the Policy states that 'A licence will not normally be granted if the Applicant has been convicted, or previously disqualified from driving in respect of major traffic offences until a period of five years free from conviction or at least five years since the completion of the sentence (whichever is longer)'.
- 3.6 There is a right of Appeal to the Magistrates' Court as provided under section 52 (1) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

**Rachael Hind  
Regulatory Service Manager (Commercial)**

## Annex 1 - Supporting information

### A1. Introduction and history

- A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.2 Sections 51 (in respect of Private Hire drivers) and 59 (in respect of Hackney Carriage drivers) of the Act state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.
- A1.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an applicant is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- A1.4 Torbay Council has adopted a number of common practices for testing the 'fit and proper' status of drivers and applicants and includes an Enhanced DBS check and DVLA licence checking to name a few.
- A1.5 This report follows an application made by Mr Brian Peddie on the 18<sup>th</sup> of September 2023 for a Torbay Council issued dual drivers' licence. In the application he submitted to Torbay Council, he declared he had been convicted of a traffic offence, dated the 15<sup>th</sup> of May 2023.
- A1.6 An online DVLA licence check was carried out on Mr Peddie's driving licence on the 18<sup>th</sup> of September 2023 where it was identified he had the following motoring conviction:

Offence date –	15 May 2023
Expiry date –	15 May 2026
Offence –	CU80 Breach of requirements as to control of the vehicle, mobile telephone etc.
Penalty Points –	6 Points

A screen shot taken from the DVLA licence database can be found at Appendix 1.

- A1.7 Mr Peddie was contacted by Mr Jonathon Edwards from Torbay Council's Licensing Department by telephone to discuss the application and the relevance of the major traffic offence. It was established during this conversation that Mr Peddie had not read the Policy before submitting the application. Mr Edwards then emailed Mr Peddie with a link to the Policy and asked him if he wished to either withdraw the application or proceed. Mr Peddie responded on the 18<sup>th</sup> of September 2023 by email and requested that the application be heard by Torbay Council's Licensing Committee. This document can be found at Appendix 2.
- A1.8 Mr Peddie was written to by Shaun Rackley from Torbay Council's Licensing Department on the 22<sup>nd</sup> of September 2023 to request his submission which would

be put before Licensing Committee, along with a request for his Enhanced Disclosure & Barring Service (DBS) check. This document can be found at Appendix 3.

A1.9 Mr Peddie responded by letter and supplied his mitigating circumstances. This document can be found at Appendix 4.

A1.10 A copy of Mr Peddie's Enhanced DBS can be found at Appendix 5.

A1.11 The Statutory Taxi and Private Hire vehicle standards, as issued by the Department for Transport state:

*5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:*

***5.13 Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?***

*If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.*

*5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.*

**Relevant excerpts of Torbay Councils Taxi policy state:**

5. Drivers

General Licensing Requirements

5.4 When determining whether a person is "fit and proper", the Licensing Authority will require the applicant to demonstrate that:

vi) They have a satisfactory driving history, as verified through the DVLA and in accordance with the Convictions Policy at Appendix A

vii) They are considered 'fit and proper' by the Licensing Authority, taking account of any other relevant information as may be requested and considered appropriate by the Licensing Authority.

*Appendix A: Taxi & PHV Licensing Criminal Convictions Policy –*

8 Major traffic offences

8.1 A licence will not normally be granted if the Applicant has been convicted or previously disqualified from driving in respect of major traffic offences until a period of five years free from conviction or at least five years since the completion of the sentence (whichever is longer).

8.3 A list of major traffic offences can be seen in table 2.

Table 2: Major traffic offences

<b>Code</b>	<b>Offence</b>
CU80	Breach of requirements as to control of the vehicle, such as using a mobile phone

A1.12 There is a right of Appeal to the Magistrates' Court as provided under section 52 (1) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

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

A2.1.1 There are no significant risks.

## **A3. Options**

A3.1 The options are:

- (i) To grant Mr Brian Peddie's application for a Torbay Council issued Driver's Licence, if satisfied that Mr Peddie is considered a 'fit and proper' person to drive a Hackney Carriage or Private Hire vehicle.
- (ii) To refuse Mr Brian Peddie's application on the grounds that he is not considered a 'fit and proper' person to hold such a licence.

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

A4.1 There may be some resource implications if there is an Appeal to the Magistrates' Court.

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

A5.1 There are no environmental sustainability issues, equalities or crime and disorder issues other than as outlines in this report.

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

A6.1 There has been no public consultation on this matter and there is no requirement for the Licensing Sub-Committee to consult the public on this matter.

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

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

### **Documents available in members' rooms**

**None**

### **Appendices**

- |            |  |
|------------|--|
| Appendix 1 | DVLA licence check of Brian Peddie's driving licence carried out on the 18 <sup>th</sup> of September 2023   |
| Appendix 2 | Email correspondence between Jonathon Edwards (Licensing Department) and Brian Peddie about application - dated 18 <sup>th</sup> of September 2023                         |
| Appendix 3 | Letter to Brian Peddie from Shaun Rackley (Licensing Department) requesting Enhanced Disclosure and Barring Service (DBS) check – dated 22 <sup>nd</sup> of September 2023 |
| Appendix 4 | Letter from Brian Peddie with mitigating circumstances to be put before Licensing Committee – dated 28 <sup>th</sup> of September 2023                                     |
| Appendix 5 | Copy of Brian Peddie's Enhanced DBS check (restricted)   |

### **Background Papers:**

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

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2022  
Department of Transports, Statutory Taxi and Private Hire vehicle standards 2020

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Vehicles you can drive

Penalties and disqualifications

Get your check code

**Mr BRIAN [REDACTED] PEDDIE**

Date of birth [REDACTED]

Gender **Male**

Address [REDACTED]

Licence details

Driving status **You have a full driving licence**

Licence valid from [REDACTED]

Licence valid to [REDACTED]

Driving licence number [REDACTED]

Licence issue number [REDACTED]

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Your details

Vehicles you can drive

Penalties and disqualifications

Get your check code

To find out more visit the [penalty points](#) and [disqualifications](#) sections.

You have

**6 current penalty points**

<b>CU80</b> Penalty points: 6 Offence date: 15 May 2023 <span style="float: right;">Hide information </span>		
<b>Offence dates</b> <b>Offence date:</b> 15 May 2023 <b>Expiry date:</b> 15 May 2026 <b>Removal date:</b> 15 May 2027	<b>Offence details</b> <b>CU80:</b> Breach of requirements as to control of the vehicle, mobile telephone etc <b>Penalty points:</b> 6	<b>Court/Fixed penalty office</b> <b>9972:</b> South Region Fixed Penalty Office (Southend-On-Sea)
<b>SP50</b> Penalty points: 3 Offence date: 13 Jun 2020 Expired <span style="float: right;">Show information </span>		

**From:** brianpeddie [REDACTED]  
**Sent:** Monday, September 18, 2023 4:00 PM  
**To:** Edwards, Jonathon <[Jonathon.Edwards@torbay.gov.uk](mailto:Jonathon.Edwards@torbay.gov.uk)>  
**Subject:** Re: Taxi Policy document

Hi Jonathon,

Thank you for your email and for the careful deliberation on how you broke the news to me.

I have read the Policy document and page 43, so am now more informed. The policy does state that "new licences will not normally be issued". My hope rests on the word "normally".

I understand that my application has been put on hold for the time being, but want to highlight and assure of the investment, financial and otherwise, put into this venture. To confirm, in getting to this application stage, I have had two medicals (one of which was in London), passed the enhanced DBS check and purchased a car under three years old.

I would like to ask for a dispensation to be considered, for my individual circumstance and commitment shown, and would appreciate if you could let me know how the next stage of this application is able to move forward?

I would be grateful for the opportunity for this application to go to the relevant Committee or Board. It would be my wish to attend in person in able to present and explain how the offence occurred and how the unfairness of the penalty issued has affected me since.

Personally, the effect on my future plans and wellbeing will be exacerbated further if it prevents me from moving forward with this very carefully considered career choice. I would like the chance for the relevant Committee Members, to see that I am an upstanding member of the local community, decent, honest and well presented, and that I would be a good addition to the local private hire drivers in Torbay, before the final decision is made on this application.

Please be assured that I will not be appealing a negative conclusion and will respect the judgement of the local people making the decision. I will be grateful for having been given the opportunity to put my case forward and to be seen as a valued member of our local community.

Regards

Brian Peddie

On Monday, 18 September 2023 at 14:25:25 BST, Edwards, Jonathon <[jonathon.edwards@torbay.gov.uk](mailto:jonathon.edwards@torbay.gov.uk)> wrote:

Good afternoon again Brian,

Further to our recent telephone conversation I suggest that you click on the link below then open the Policy document.

Once open you need to turn to page 43 and read from there. The list of major offences is on page 45.

Please come back to me with your thoughts once you have time to read it.

Regards, Jon.

[Hackney Carriage \(Taxi\) and Private Hire Policy - Torbay Council](#)

**Jonathon Edwards** | Compliance Officer | Food, Safety, Licensing

Town Hall, Torquay, TQ1 3DR

[jonathon.edwards@torbay.gov.uk](mailto:jonathon.edwards@torbay.gov.uk)

[www.torbay.gov.uk](http://www.torbay.gov.uk)

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Please note: This electronic email is confidential and may also be privileged. If you are not the intended recipient, please notify the sender and please delete the message from your system immediately. The views expressed in this message are personal and are not necessarily those of Torbay Council.

**Please reply to:** Mr Shaun Rackley

Licensing & Public Protection  
Town Hall  
Castle Circus  
Torquay  
Devon  
TQ1 3DR

Mr B Peddie

XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXX

**My ref:** NEW/SAR

**Your ref:**

**Telephone:** 01803 208025

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

**Date:** 22 September 2023

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Dear Mr Peddie,

**Re: Application for Licensed Drivers badge**

I am writing to you following the submission of an application made by yourself for a Licensed drivers badge with Torbay Council.

Unfortunately, after checking the application and carrying out a DVLA check of your licence, it has been identified you have received a major traffic offence as listed in Torbay Councils Taxi Policy.

The Policy states the following:

*8 Major traffic offences*

*8.1 A licence will not normally be granted if the Applicant has been convicted or previously disqualified from driving in respect of major traffic offences until a period of five years free from conviction or at least five years since the completion of the sentence (whichever is longer).*

*8.3 A list of major traffic offences can be seen in table 2.*

A CU80 offence which you received on the 15<sup>th</sup> of May 2023 is listed within table 2 of the major traffic offences.

A decision on whether a Licensed driver's badge can be granted, or refused must be made by Torbay Council's Licensing Committee.

A hearing date of **Thursday the 26<sup>th</sup> of October 2023 at 09:30hrs** has been set.

In order for me to compile a report to put before members, I require the following document:

- Enhanced Disclosure & Barring Service (DBS) check (must be carried out in the last 2 months, or, if you are signed up to the DBS update service, this can be an older certificate)
- Group 2 medical check
- Driving Standards Assessment

Please can you also respond in writing with any mitigating circumstances that will support your

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

application. This will be included in the report, however, you will also be invited to attend and address the Committee members on the day and put your case before them.

Please can you return all requested information by no later than **Friday the 29<sup>th</sup> of September 2023**. Failure to return the documents will delay the hearing and a later date being set.

If you wish to withdraw your application, please let me know and I can arrange a refund of the fee paid.

I look forward to hearing from you in due course.

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Rackley', with a small flourish at the end.

Shaun Rackley  
Licensing Officer

Brian Peddie



Mr Rackley  
Licensing & Public Protection  
Town Hall  
Castle Circus  
Torquay  
Devon  
TQ1 3DR

28<sup>th</sup> September 2023

Your Ref: NEW/SAR

Dear Mr Rackley,

Many thanks for your letter dated 22<sup>nd</sup> September regarding my application for a Licensed Drivers Badge.

Please find attached all the documents that you requested, namely, the Enhanced DBS check, the medical certificate and Taxi Driver Test Certificate from Red One.

Please also find below the circumstances surrounding my conviction on the 15<sup>th</sup> May 2023 are detailed below:

I was driving as a trade plate driver at this time. For those who may not know what this entails, it is picking up vehicles from one location and dropping them off at another, anywhere around the country. These vehicles could be brand new vans or cars, coming straight off the docks, to old roadworthy bangers going to auction sites all over the country.

I would pick up and deliver from 3-4 vehicles each day, clocking up on average 400 miles per day. I carried out these duties for over 7 months and never incurred a speeding ticket or damaged any of the vehicles in my charge.

When getting into a new vehicle, I would immediately link my phone to the Bluetooth of the vehicle, but on some vehicles, due to their age, or incompatibility to my handset this was not always possible. In these rare circumstances, I utilised a phone holder which attaches to the back of an air vent to enable me to remain safely hands free.

On the day in question, I had picked up an Audi from Bristol and was taking it to one of the dealerships in Exeter. The Audi was on a 2016 plate, but for some reason would not allow a Bluetooth connection to my handset, I therefore used my mobile phone vent attachment to safely secure the handset.

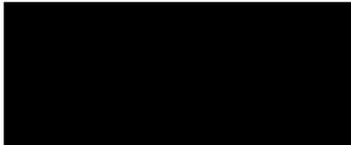
Whilst on the M5, going south around Cribbs Causeway, I drove over a pothole and my phone and vent holder fell away from the vent and into the driver's footwell. This obviously worried me, as any loose items in the footwell are a dangerous hazard to the vehicle pedals. I therefore reached down with my right hand, keeping my attention firmly on the road ahead and my lane positioning, and picked up the handset. I then carefully transferred it to my left hand, without removing a hand from the steering wheel at any point and hooked it back into the vent holder device. As I did this, I drove past an unmarked police car, who then proceeded to pull me over and give me a ticket for holding a handset while driving. I explained what had happened to the two police officers, including showing them the vent holder, but they were not interested in the circumstance or danger this presented and just seemed very happy to be giving out a ticket.

At the time I felt incredibly disheartened by the incident, as I truly felt it was paramount to remove the device from the driver's footwell to reduce the risk of an accident to myself and/or other motorway users.

The fact this has now had an impact on my application to be a Licenced Driver for Torbay is devastating.

I would like to thank you for giving me the opportunity to explain the circumstances of my driving offence and would be very grateful if you could look at the commitment I have extended, both financially and personally, to being a valued service provider to my local Torbay community.

Yours sincerely



Brian Peddie  
Encs

Document is Restricted

## **TORBAY COUNCIL**

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Report No: Public Agenda Item: **Yes**

Title: **Application for Torbay Council Driver's Licence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **26<sup>th</sup> October 2023**

Key Decision: **No**

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

Contact Officer: **Shaun Rackley**  
Telephone: **01803 208026**  
E.mail: [Shaun.rackley@torbay.gov.uk](mailto:Shaun.rackley@torbay.gov.uk)

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

This report concerns an application for a Torbay Council Driver's Licence, where the Applicant has previously had their licence revoked by a Licensing Sub-Committee on the 9<sup>th</sup> of December 2021. In addition, they do not meet Torbay Council's Hackney Carriage & Private Hire Licensing Policy (hereinafter referred to as 'the Policy') requirements. This report is to consider whether the applicant is considered a 'fit and proper person' to hold a Torbay Council Driver's Licence.

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

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony advanced at a hearing. Therefore, there is no recommendation. The options available to Members, however, are highlighted in paragraph **A3.1 of Annex 1** to this report.

### **3. Key points and reasons for recommendations**

- 3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriage and Private Hire Vehicles and drivers within Torbay.
- 3.2 Sections 51 and 59 of the 1976 Act, in conjunction with section 46 of the Town Police Clauses Act 1847, make provision for the licensing of drivers and state that a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.

- 3.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an Applicant, is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- 3.4 This report follows an application made by Mr Simon Setters on the 20<sup>th</sup> of September 2023 for a Torbay Council issued dual drivers' licence. In that application he submitted to Torbay Council, he had declared he had been convicted of three separate traffic offences and had a total of nine DVLA penalty points on his DVLA issued licence.
- 3.5 In considering the Policy, Mr Setters' three traffic offences fall into the category of 'minor' traffic offences, however, as he currently has nine points on his DVLA issued licence, the Policy states that 'Applicants that have seven or more penalty points on their driving licence will normally be refused and no further application will be considered until a period of at least one year free from conviction or at least one year since the completion of the sentence (whichever is longer)'.
- 3.6 Mr Setters previous Torbay Council issued Drivers Licence was revoked by a Licensing Sub-Committee on the 9<sup>th</sup> of December 2021 for three separate incidents.
- 3.7 There is a right of Appeal to the Magistrates' Court as provided under section 52 (1) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

**Rachael Hind  
Regulatory Service Manager (Commercial)**

## Annex 1 - Supporting information

### A1. Introduction and history

- A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.2 Sections 51 (in respect of Private Hire drivers) and 59 (in respect of Hackney Carriage drivers) of the Act state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.
- A1.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an applicant is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- A1.4 Torbay Council has adopted a number of common practices for testing the 'fit and proper' status of drivers and applicants and includes an Enhanced DBS check and DVLA licence checking to name a few.
- A1.5 This report follows an application made by Mr Simon Setters on the 20<sup>th</sup> of September 2023 for a Torbay Council issued dual drivers' licence. In the application he submitted to Torbay Council, he declared he had been convicted of three separate traffic offences and had received 9 penalty points on his DVLA issued licence.
- A1.6 An online DVLA licence check was carried out on Mr Setters driving licence on the 22<sup>nd</sup> of September 2023 where it was identified he had the following motoring convictions:

Offence date – 2 Aug 2021  
Expiry date – 2 Aug 2024  
Offence – SP30 Exceeding statutory speed limit on a public road  
Penalty Points – 3 Points

Offence date – 13 Sep 2021  
Expiry date – 13 Sep 2024  
Offence – SP30 Exceeding statutory speed limit on a public road  
Penalty Points – 3 Points

Offence date – 19 Sep 2021  
Expiry date – 19 Sep 2024  
Offence – SP30 Exceeding statutory speed limit on a public road  
Penalty Points – 3 Points

A screen shot taken from the DVLA licence database can be found at Appendix 1.

- A1.7 Mr Setters previously held a Torbay Council issued Licensed drivers badge from the 14<sup>th</sup> of July 2021 until the 9<sup>th</sup> of December 2021 (LD0031). His licence was revoked on the 9<sup>th</sup> of December by a Licensing Sub-Committee due to three separate incidents. A copy of the minutes and decision from the Licensing Sub-Committee held on the 9<sup>th</sup> of December 2021 can be found at Appendix 2.
- A1.8 Mr Setters was written to by Shaun Rackley from Torbay Council's Licensing Department on the 22<sup>nd</sup> of September 2023 to request his submission which would be put before Licensing Committee, along with a request for his Enhanced Disclosure & Barring Service (DBS) check. This document can be found at Appendix 3.
- A1.9 Mr Setters responded by sending the requested documents along with two references from previous employers, but no written submission. These documents can be found at Appendix 4 and 5.
- A1.10 A copy of Mr Setters Enhanced DBS can be found at Appendix 6.
- A1.11 The Statutory Taxi and Private Hire vehicle standards, as issued by the Department for Transport state:

*5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:*

***5.13 Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?***

*If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.*

*5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.*

#### **Relevant excerpts of Torbay Councils Taxi policy state:**

##### 5. Drivers

##### General Licensing Requirements

5.4 When determining whether a person is "fit and proper", the Licensing Authority will require the applicant to demonstrate that:

- vi) They have a satisfactory driving history, as verified through the DVLA and in

accordance with the Convictions Policy at Appendix A  
vii) They are considered 'fit and proper' by the Licensing Authority, taking account of any other relevant information as may be requested and considered appropriate by the Licensing Authority.

#### *Appendix A: Taxi & PHV Licensing Criminal Convictions Policy –*

##### 7 Minor traffic offences

7.3 Applicants that have seven or more penalty points on their driving licence will normally be refused and no further application will be considered until a period of at least one year free from conviction or at least one year since the completion of the sentence (whichever is longer).

7.5 A list of minor traffic offences can be seen in table 1.

Table 1: Minor traffic offences

<b>Code</b>	<b>Offence</b>
SP30	Exceeding statutory speed limit on a public road

A1.12 There is a right of Appeal to the Magistrates' Court as provided under section 52 (1) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

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

A2.1.1 There are no significant risks

## **A3. Options**

A3.1 The options are:

- (i) To grant Mr Simon Setters' application for a Torbay Council issued Driver's Licence, if satisfied that Mr Setters is considered a 'fit and proper' person to drive a Hackney Carriage or Private Hire vehicle.
- (ii) To refuse Mr Simon Setters' application on the grounds that he is not considered a 'fit and proper' person to hold such a licence.

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

A4.1 There may be some resource implications if there is an Appeal to the Magistrates' Court.

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

A5.1 There are no environmental sustainability issues, equalities or crime and disorder issues other than as outlines in this report.

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

A6.1 There has been no public consultation on this matter and there is no requirement for the Licensing Sub-Committee to consult the public on this matter.

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

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

## **Documents available in members' rooms**

**None**

## **Appendices**

Appendix 1	DVLA licence check of Simon Setters driving licence carried out on the 22 <sup>nd</sup> of September 2023
Appendix 2	Minutes and decision from Licensing Sub-Committee hearing from the 9 <sup>th</sup> of December 2021
Appendix 3	Letter to Simon Setters from Shaun Rackley (Licensing Department) requesting Enhanced Disclosure and Barring Service (DBS) check – dated 22 <sup>nd</sup> of September 2023
Appendix 4	Reference for Simon Setters from employer – dated 4 <sup>th</sup> of May 2023
Appendix 5	Reference for Simon Setters from employer – dated 3 <sup>rd</sup> of May 2023
Appendix 6	Copy of Simon Setters Enhanced DBS check (restricted)

## **Background Papers:**

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

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2022  
Department of Transport, Statutory Taxi and Private Hire vehicle standards 2020

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Your details

Vehicles you can drive

Penalties and disqualifications

Get your check code

### Mr SIMON SETTERS

Date of birth

[Redacted]

Gender

Male

Address

[Redacted]

Licence details

Driving status

You have a full driving licence

Licence valid from

[Redacted]

Licence valid to

Driving licence number

Licence issue number

You have

## 9 current penalty points

<b>SP30</b> Penalty points: 3 Offence date: 19 Sep 2021 <span style="float: right;">Hide information </span>		
<b>Offence dates</b> <b>Offence date:</b> 19 Sep 2021 <b>Expiry date:</b> 19 Sep 2024 <b>Removal date:</b> 19 Sep 2025	<b>Offence details</b> <b>SP30:</b> Exceeding statutory speed limit on a public road <b>Penalty points:</b> 3	<b>Court/Fixed penalty office</b> <b>9972:</b> South Region Fixed Penalty Office (Southend-On-Sea)
<b>SP30</b> Penalty points: 3 Offence date: 13 Sep 2021 <span style="float: right;">Hide information </span>		
<b>Offence dates</b> <b>Offence date:</b> 13 Sep 2021 <b>Expiry date:</b> 13 Sep 2024 <b>Removal date:</b> 13 Sep 2025	<b>Offence details</b> <b>SP30:</b> Exceeding statutory speed limit on a public road <b>Penalty points:</b> 3	<b>Court/Fixed penalty office</b> <b>9972:</b> South Region Fixed Penalty Office (Southend-On-Sea)
<b>SP30</b> Penalty points: 3 Offence date: 2 Aug 2021 <span style="float: right;">Hide information </span>		
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## **Minutes of the Licensing Sub-Committee**

**9 December 2021**

**-: Present :-**

Councillors Ellery, Barbara Lewis and Mills

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**30. Election of Chairman/woman**

Councillor Ellery was elected as Chairman for the meeting.

**31. Minutes**

The Minutes of the meetings of the Sub-Committee held on 7 October and 11 November 2021 were confirmed as a correct record and signed by the Chairman.

**32. *Removed***

**33. Review of Torbay Council issued Driving Licence**

Members considered a report that set out relevant facts relating to a holder of a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence. Members were requested to determine the facts before them, whether or not the holder of the dual Hackney Carriage and Private Hire Driver's Licence remained a fit and proper person to hold such licence.

The Respondent addressed Members and responded to questions.

**Decision:**

That Mr Setters' Torbay Council Driver's Licence be revoked in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 and that this revocation shall have immediate effect, in accordance with Section 61(2B) of the Local Government Miscellaneous Provisions Act 1976.

**Reasons for Decision:**

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

Notwithstanding the mitigating explanations presented by Mr Setters, Members were concerned that having only been issued with his Torbay Council Drivers Licence on 14 July 2021, Mr Setters was before the Licensing Sub-Committee in relation to four notifications for speeding, an alleged sexual act within a licensed vehicle witnessed by minors, and a road traffic accident which resulted in the licensed vehicle turning over in a lane near Ipplepen, with injuries being sustained by the passengers.

Members had regard to the fact that, at the hearing, Mr Setters accepted committing the four speeding offences and confirmed that he had been contacted by DVLA the day before the hearing where he had been informed that he had received 9 penalty points for the offences, together with a requirement to undertake a speed awareness course. It was of concern to Members that Mr Setters submitted that had he been made aware of the first speeding offence before the others, he would have been alerted to the presence of the camera and would not have been caught on a further three occasions by the same camera.

In relation to the report received from the member of public having witnessed a sexual act within the licensed vehicle, whilst passing with a minibus full of minors, Members considered the conflicting submissions and found Mr Setters not to be believable in his account that a medical examination was being undertaken by a female friend to address a pressing health concern.

In any event, Members were not satisfied that a reasonable person would consider parking in a public place, late at night, and partially undressing to the point of exposing their genitals close to a campsite used by young persons and determined that this was not the behaviour expected from a professional licenced driver, or an appropriate use of a licensed vehicle and demonstrated exceptionally poor judgment.

Upon consideration of the road traffic collision, Members noted Mr Setters explanation that the driving conditions were poor at the time of the incident but also had regard to the written statements from two of the passengers and that submitted by the mother of one of the passengers, the following day.

Members could not be certain of the facts and noted the absence of a police report which may have assisted them and were mindful of the decision by the Police not to press charges. However, even if they were to accept Mr Setters account of the events that occurred, he admitted to driving at around 20 mph through thick fog which had descended. Members considered this to be too fast in the circumstances and together with the four previous speeding offences, Members could not be satisfied that Mr Setters had not been driving too fast for the prevailing conditions which resulted in him rolling his vehicle with four young passengers onboard. Members were also unconvinced that for the vehicle to have overturned, causing it to be written off, coupled with the witness account they were unable to open some of the vehicle doors due to the damage, that excessive speed was not a factor.

Members were extremely concerned that Mr Setters had encouraged his passengers to leave the scene before the emergency services had arrived, having

admitted not being medically qualified himself to assess the extent of any injuries sustained.

Members noted that Mr Setters had not reported the collision within 72 hours, as required by Torbay Council's Hackney Carriage and Private Hire Licensing Policy 2019 - 2022

In concluding, Members unanimously resolved to revoke Mr Setters' Torbay Council Drivers' Licence with immediate effect, as they could not be satisfied that he remained a fit and proper person to hold a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence. In determining this, Members concluded that based on the evidence available and all written and oral submissions, that Mr Setter's conduct as a professional driver had fallen well below the high standard expected, that he was not a credible witness, and not withstanding his mitigating circumstances, to revoke his Licence with immediate effect was appropriate and proportionate in all the circumstances to ensure public safety.

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Chairman

**Please reply to:** Mr Shaun Rackley

Licensing & Public Protection  
Town Hall  
Castle Circus  
Torquay  
Devon  
TQ1 3DR

Mr S Setters  
XXXXXXXXXXXXXXXXXXXX  
XXXXXX  
XXXXXX

**My ref:** NEW/SAR

**Your ref:**

**Telephone:** 01803 208025

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

**Date:** 22 September 2023

---

Dear Mr Setters,

**Re: Application for Licensed Drivers badge**

I am writing to you following the submission of an application made by yourself for a Licensed drivers badge with Torbay Council.

Unfortunately, after checking the application, it has been identified you have received 9 DVLA penalty points for traffic offences. These are 3 separate traffic offences which are listed in Torbay Councils Taxi Policy as minor traffic offences.

The Policy states the following:

*7 Minor traffic offences*

*7.1 Convictions for minor traffic offences will not prevent a person from being considered for a licence.*

*7.2 Applicants that have six live penalty points on their driving licence for such offences, may be granted a licence subject to a strong written warning.*

*7.3 Applicants that have seven or more penalty points on their driving licence will normally be refused and no further application will be considered until a period of at least one year free from conviction or at least one year since the completion of the sentence (whichever is longer).*

*7.4 In the case of a licensed driver accumulating nine or more penalty points on their driving licence, the Licensing Authority may refuse to renew, suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least one year free from conviction or at least one year since the completion of the sentence (whichever is longer).*

*7.5 A list of minor traffic offences can be seen in table 1.*

Further to this, your previous Licensed Drivers badge (LD0031) was revoked by Torbay Council's Licensing Committee on the 9<sup>th</sup> of December 2021.

A decision on whether a Licensed driver's badge can be granted to you, or refused, must be made by Torbay Council's Licensing Committee.

A hearing date of **Thursday the 26<sup>th</sup> of October 2023 at 09:30hrs** has been set.

In order for me to compile a report to put before members, I require the following document:

- Enhanced Disclosure & Barring Service (DBS) check (must be carried out in the last 2 months, or, if you are signed up to the DBS update service, this can be an older certificate)
- Group 2 medical check
- Driving Standards Assessment

Please can you also respond in writing with any mitigating circumstances that will support your application. This will be included in the report, however, you will also be invited to attend and address the Committee members on the day and put your case before them.

Please can you return all requested information by no later than **Friday the 29<sup>th</sup> of September 2023**. Failure to return the documents will delay the hearing and a later date being set.

If you wish to withdraw your application, please let me know and I can arrange a refund of the fee paid.

I look forward to hearing from you in due course.

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

Yours sincerely



Shaun Rackley  
Licensing Officer



**€ASTERN €YE**  
**INDIAN CUISINE**

120 - 122 Queen Street, Newton Abbot, TQ12 2EU  
Tel: (01626) 331155  
[www.theeasterneye.net](http://www.theeasterneye.net)  
U.A.T Reg. No. 723 2994 25

4<sup>th</sup> May 2023

Dear Sir/Madam,

**Re.: SIMON SETTERS**

Simon works at the Eastern Eye as delivery driver. He was a hard working, punctual and polite member of the team.

I believe him to be both honest and trustworthy, and would recommend him highly as a reliable and responsible employee.

If you require further information, please do not hesitate to contact me.

Yours faithfully



**Subject** Fw: reference  
**To:** [Shaun Rackley <shaun.rackley@torbay.gov.uk>]  
**From** [REDACTED]  
**Date** Wed, 3 May 2023 at 7:14 pm

[Sent from Yahoo Mail on Android](#)

----- Forwarded message -----

[REDACTED]  
**Cc:**  
**Sent:** Wed, 3 May 2023 at 4:27 pm  
**Subject:** reference  
Torbay Cab Company

Peaceful Cottage

Cary Parade

TQ3 1QS

To whom it may concern.

My name is [REDACTED] and I am a director at Torbay Cab Company. Torbay cab company has been in existence for many decades. We currently have thirty six cars on our fleet and control fourteen for Brixham Taxis. I have been a taxi proprietor for twenty four years and I also ran the local taxi association, up until recently, for many years.

Simon has worked with Torbay cabs for quite some time now. He has been both a controller, a driver and once again a controller. When we first heard he lost his license we were very disappointed for him. However his loss was our gain as we were short of a hard working controller.

Simon has always been professional and courteous whilst in our employ. It will be a great loss for the company when he leaves, although I do believe he intends to drive for us.

*I would recommend Simon for a new taxi badge. Torbay Cab co would not engage the services of a driver we didn't trust with our valued customers.*

[REDACTED]  
Torbay Cab Company.

Document is Restricted

## **TORBAY COUNCIL**

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Report No: Public Agenda Item: **Yes**

Title: **Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **26<sup>th</sup> October 2023**

Key Decision: **No**

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

Contact Officer: **Shaun Rackley**  
☎ Telephone: **01803 208026**  
✉ E.mail: [Shaun.rackley@torbay.gov.uk](mailto:Shaun.rackley@torbay.gov.uk)

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

- 1.1 This report asks Members to consider relevant facts relating to the holder of a Torbay Council issued dual Hackney Carriage and Private Hire drivers licence. This follows receipt of information from Devon & Cornwall Police where the licence holder has committed an offence under the current Taxi Policy 2022 and the Town Police Clauses Act 1847, by allowing an unlicensed driver to use a registered Torbay Council Hackney Carriage vehicle without the correct licence in place. Members are requested therefore to determine on the facts laid before them, whether or not the Applicant remains a 'fit and proper person' to hold such a licence.

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

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony advanced at a hearing. Therefore, there is no recommendation. The options available to Members, however, are highlighted in paragraph **A3.1 of Annex 1** to this report.

### **3. Key points and reasons for recommendations**

- 3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriage and Private Hire Vehicles and drivers within Torbay.
- 3.2 Sections 51 and 59 of the 1976 Act, in conjunction with section 46 of the Town Police Clauses Act 1847, make provision for the licensing of drivers and state that

a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.

- 3.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an Applicant, is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- 3.4 Torbay Council has adopted a number of common practices for testing the 'fit and proper' status of drivers and Applicants. One of these is that they should possess and maintain a suitable driving ability and driving history.
- 3.5 This report follows information received from Devon & Cornwall Police regarding Mr Rebin Mohammed, who holds a Torbay Council dual drivers' licence. The information provided relates to a speeding offence committed in a Torbay Council registered Hackney Carriage vehicle on the 16<sup>th</sup> of April 2023 in Plymouth. Mr Mohammed is the current Hackney Carriage vehicle proprietor licence holder of this registered Hackney Carriage.
- 3.6 After investigation, it has been identified that Mr Mohammed has permitted an unlicensed driver to use a Torbay Council registered Hackney Carriage vehicle. This is an offence under the Town Police Clauses Act 1847 and a breach of Torbay Council's Taxi Policy.
- 3.7 Mr Mohammed has additionally been unable to provide valid insurance to show the vehicle was insured at the time of being driven. His honesty and professionalism as a licensed driver has also come into question due to the circumstances surrounding this incident.
- 3.8 It is for the Licensing Sub-Committee to consider whether Mr Rebin Mohammed remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire drivers' licence.
- 3.9 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

**Rachael Hind**  
**Regulatory Service Manager (Commercial)**

## **Annex 1 - Supporting information**

### **A1. Introduction and history**

- A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.2 Sections 51 (in respect of Private Hire drivers) and 59 (in respect of Hackney Carriage drivers) of the Act state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.
- A1.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an applicant is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- A1.4 Torbay Council has adopted a number of common practices for testing the 'fit and proper' status of drivers and applicants. One of these is that they should possess and maintain a suitable driving ability and driving history.
- A1.5 This report follows information received regarding Mr Rebin Mohammed, who holds a Torbay Council dual drivers' licence, licence number LD0255. Mr Mohammed has held this licence since October 2021 and was previously licensed from 2012 until 2018.
- A1.6 Devon and Cornwall Police contacted the Licensing Department on the 17<sup>th</sup> of August 2023 in relation to Mr Mohammed, advising that HC151, vehicle registration MJ20 YVO, had been caught speeding on the B3214 Old Laira Road, Plymouth at 22:02 hrs on the 16<sup>th</sup> of April 2023. The Police were trying to establish who held the vehicle proprietors licence for HC151, which at the time of the speeding offence was confirmed as Mr Mohammed. They also wanted to provide us with some information regarding this offence which they believe to be relevant to his current licence.
- A1.7 Devon & Cornwall Police sent an automatic notification following the speeding offence to the registered keeper of the vehicle, Mr Mohammed. Mr Mohammed responded to Devon & Cornwall Police on the 3<sup>rd</sup> of May 2023 and declared it was not him driving at the time of the offence and nominated a different driver the name of which the Police could not disclose to us.

It is of concern that following Mr Mohammed supplying the information to Devon & Cornwall Police, they struggled to get hold of the nominated driver at the address in Plymouth and despite numerous attempts had to write to Mr Mohammed again on the 19<sup>th</sup> of June 2023 to remind him that as the registered keeper it was his responsibility to supply up to date details of the nominated driver. The Police did receive a response from Mr Mohammed on the 28<sup>th</sup> of June 2023 along with an unsigned letter written by the nominated driver, declaring that he was driving the vehicle at the time of the incident using his French driving licence. It is worth noting

that the Police Officer has stated that although he is not a handwriting expert, both Mr Mohammed's and the nominated driver's handwriting 'appear suspiciously similar'. A copy of this email can be found at Appendix 1.

A1.8 Mr Mohammed was written to by Shaun Rackley from Torbay Council's Licensing Team on the 11<sup>th</sup> of September 2023 requesting details of who was driving HC151 at the time of the offence, along with a request for their Licensed Drivers badge details. A copy of his insurance certificate showing that the driver was covered was also requested. This document can be found at Appendix 2.

A1.9 Mr Mohammed responded by email on the 13<sup>th</sup> of September 2023 and declared that a friend, was the driver at the time of the offence. The declared driver does not and never has held a Licensed Drivers badge with this Licensing Authority, meaning that by allowing an unlicensed driver to use the registered Hackney Carriage, Mr Mohammed is in breach of Torbay Council's Taxi Policy and has committed an offence under the Town Police Clauses Act 1847, Section 47, where it states:

*If any person acts as such driver as aforesaid without having obtained such licence, or during the time that his licence is suspended, or if he lend or part with his licence, except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended, as hereinafter provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty not exceeding [level 3 on the standard scale].*

Within Mr Mohammed's response he declared "my friend drove it to help my family and myself to do some food shopping as I was not feeling well and I couldn't even get out of bed. I completely forgot to remove my taxi plate because of my illness". This document can be found at Appendix 3.

A1.10 Mr Mohammed was again written to by Shaun Rackley from Torbay Council's Licensing Team to request for the second time, an insurance certificate showing that the declared driver was insured at the time of the speeding offence. A request was also made to provide records from the card payment machine within HC151 from the 14<sup>th</sup> to the 20<sup>th</sup> of April 2023 to ascertain if Mr Mohammed had worked on the 16<sup>th</sup> of April.

This document can be found at Appendix 4.

A1.11 Mr Mohammed responded on the 28<sup>th</sup> of September 2023 with screenshots taken from his card payment machine for the dates requested. On the 16<sup>th</sup> of April 2023, Mr Mohammed took nine payments between 00:05 hrs and 03:36 hrs and then again eight payments from 17:17 hrs to 21:16 hrs. The last payment on the 16<sup>th</sup> of April was taken at 21:16 hrs, 46 minutes before the speeding offence in Plymouth occurred. Mr Mohammed also supplied his insurance certificate, which shows only himself covered to drive the vehicle, but has stated that the declared driver has never been on the policy and was using his own comprehensive insurance which he could not check as he was not well at all.

This document can be found at Appendix 5.

A1.12 Due to seriousness of the incident of Mr Mohammed allowing an unlicensed driver

to use a Hackney Carriage without the correct drivers licence in place, without valid insurance together with inconsistencies in his explanation about his illness, Mr Mohammed was written to by Shaun Rackley of Torbay Council's Licensing Team, to request his submission which would be put before Licensing Committee. This document can be found at Appendix 6.

A1.13 Mr Mohammed has responded by email to the letter of the 5<sup>th</sup> of October 2023 and provided his mitigating circumstances surrounding the incident. This document can be found at Appendix 7

A1.14 The Statutory Taxi and Private Hire vehicle standards, as issued by the Department for Transport state:

*5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:*

***5.13 Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?***

*If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.*

*5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.*

Relevant excerpts of Torbay Councils Taxi policy state:

Appendix B: Driver Code of Conduct

The driver must not, at any time, when driving a Hackney Carriage or Private Hire vehicle:

2. h) Allow any person(s) to drive the vehicle unless they are authorised to do so by the proprietor, hold an appropriate Torbay Council dual drivers licence and are fully insured to do so

Appendix D: Vehicle Specification Standards and Schedule of Conditions

Unlicensed Drivers - Your attention is drawn to section 46 of each of the 1847 and 1976 Acts which require ALL drivers of Hackney Carriage and Private Hire vehicles to hold the appropriate drivers licence as issued by the Licensing Authority and it is an offence which affects the insurance to allow any unlicensed person to drive any licensed vehicle.

A1.15 Members are requested to consider whether Mr Rebin Mohammed remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire Drivers' licence.

A1.16 There is a right of Appeal to the Magistrates' Court against the Licensing Sub-Committee decision. Such an Appeal must be lodged within 21 days from the date of a Notice following the decision.

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

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

A2.1.1 There are no significant risks.

## **A3. Options**

A3.1 The options are:

- (i) To do nothing, if satisfied that Mr Rebin Mohammed remains a 'fit and proper' person to drive a Hackney Carriage or Private Hire vehicle
- (ii) To give a formal written warning
- (iii) To revoke Mr Rebin Mohammed's drivers licence on grounds that he is no longer considered to be a 'fit and proper' person to hold such a licence

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

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

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

A5.1 There are no environmental sustainability issues, equalities or crime and disorder issues other than as outlines in this report.

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

A6.1 There has been no public consultation on this matter and there is no requirement for the Licensing Sub-Committee to consult the public on this matter.

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

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

## **Documents available in members' rooms**

None

## **Appendices**

- Appendix 1 Information received from Devon & Cornwall Police dated 23<sup>rd</sup> August 2023
- Appendix 2 Letter to Rebin Mohammed from Shaun Rackley (Licensing Team) requesting information dated 11<sup>th</sup> September 2023
- Appendix 3 Email response from Rebin Mohammed with drivers details dated 13<sup>th</sup> September 2023
- Appendix 4 Email to Rebin Mohammed from Shaun Rackley (Licensing Team) requesting card payment device print out and insurance document dated 26<sup>th</sup> September 2023
- Appendix 5 Email response from Rebin Mohammed with card payment device print out and insurance document dated 28<sup>th</sup> September 2023
- Appendix 6 Letter to Rebin Mohammed from Shaun Rackley (Licensing Team) requesting mitigating circumstances dated 5<sup>th</sup> October 2023
- Appendix 7 Response from Rebin Mohammed with mitigating circumstances dated 11<sup>th</sup> October 2023
- Appendix 8 Historic complaint details and letters relating to Rebin Mohammed

**Background Papers:**

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

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2022  
Department of Transports, Statutory Taxi and Private Hire vehicle standards 2020

**From:** WEDGEBROW David 16214 [REDACTED]  
**Sent:** Wednesday, August 23, 2023 10:05 AM  
**To:** Edwards, Jonathon <Jonathon.Edwards@torbay.gov.uk>  
**Subject:** RE: Rebin Mohammed

Good morning Jon,

Thank you again for the conversation earlier this month and I'm sorry for the delay in supplying the relevant details.

For legal reasons I cannot divulge any details of the third party that Mr Rebin MOHAMMED nominated for the speeding offence. However, the circumstances are as follows:-

Offence Notice number [REDACTED]

This relates to a speeding offence which occurred at 22:02:03 hrs on 16/04/2023. The activating vehicle being MJ20YVO a VW Touran was captured at 25 mph in a 20 mph zone, along B3214 Old Laira Road, Plymouth.

On 18/04/2023, an automatic notice was sent to the registered keepers address (Supplied via Police National Computer & DVLA) to a Mr Rebin MOHAMMED of [REDACTED]

On 03/05/2023, Mr Rebin MOHAMMED replied in writing and formally nominated a male living in Plymouth as the driver at the time of the offence. Several notices and reminders were sent to the nominated male at the address provided. However, post was returned on 12/5/23 indicating the male no longer lived there.

On 19/06/23, a formal letter was sent to Mr Rebin MOHAMMED at the [REDACTED] address, advising him that it is his responsibility to provide updated details of the nominated person's address.

On 28/06/2023 the police then received a written reply from the nominated person admitting responsibility. In addition, an unsigned letter was also provided which stated, that he drove his friend's vehicle and has a French driving licence.

All further correspondence has been returned from the nominated address and no additional details were provided. I have checked with DVLA/Police and public systems and there is no trace of the nominated person. Furthermore, I have checked with Mr MOHAMMED's insurance for the vehicle. The policy indicates that Mr Rebin MOHAMMED of [REDACTED] is the only person permitted to drive this vehicle.

Lastly, I would like to add that I am no handwriting expert and the letters will not be analysed. However, I have compared the writing provided by Mr Rebin MOHAMMED dated 19/06/23, and that of the nominated individual dated 28/06, and in my opinion, they do appear suspiciously similar.

I hope this clarifies the matter and the council can assess any taxi licencing offences that may have arisen.

Yours sincerely

David

**Pc 6214 David Wedgebrow**  
**Road Safety Investigation Team**  
**Crownhill Police Station**  
**Plymouth**  
**Devon**

[REDACTED]

**Please reply to:** Mr Shaun Rackley

Licensing & Public Protection  
Town Hall  
Castle Circus  
Torquay  
Devon  
TQ1 3DR

Mr R Mohammed  
[REDACTED]  
[REDACTED]  
[REDACTED]

**My ref:** SRU:277026

**Your ref:**

**Telephone:** 01803 208025

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

**Date:** 11 September 2023

---

Dear Mr Mohammed,

### **Re - Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 offence**

I am writing to you following information received from Devon & Cornwall Police relating to your licensed Hackney Carriage vehicle which you are currently the proprietor of. This information concerns a possible offence committed under the Town Police Clauses Act 1847 and also questions your integrity and honesty as a licensed driver with Torbay Council.

On the 16<sup>th</sup> of April 2023 at 22:02hrs your current Hackney Carriage vehicle, HC151, vehicle registration MJ20 YVO, was captured speeding at 25mph in a 20mph zone, along the B3214 Old Laira Road, Plymouth.

On the 18<sup>th</sup> of April 2023, an automatic notice was sent out to the registered keeper's address, this being yourself, however at a different address to that on our system, 16 [REDACTED], Paignton [REDACTED].

Then on the 3<sup>rd</sup> of May 2023, you responded in writing to Devon & Cornwall Police and formally nominated a male living in Plymouth as the driver at the time of the offence. I have been informed that several notices and reminders were sent to the nominated male at the address you provided, however, those letters have been returned on the 12<sup>th</sup> of May indicating the male no longer lives at that address.

On the 19<sup>th</sup> of June 2023, a formal letter was sent to yourself from Devon & Cornwall Police at 16 [REDACTED] Paignton advising you that it is your responsibility to provide updated details of the nominated person's address.

Then on the 28<sup>th</sup> of June 2023, the Police received a written response from the nominated person admitting responsibility. In addition, an unsigned letter was also provided which stated that the male drove your vehicle and currently holds a French driving licence.

As part of this investigation the Police have checked the DVLA, Police and Public systems and there is no trace of the nominated person that you provided. Furthermore, they have checked your insurance for vehicle registration MJ20 YVO and the policy indicates that you are the only nominated driver.

Please can you provide me with the details of who the driver was at the time of the offence. I must remind you that I will be liaising with Devon & Cornwall Police on this matter and cross-referencing the name provided. Under the Town Police Clauses Act 1847, Section 47 it states the following:

***47Penalty on drivers acting without licence.***

*If any person acts as such driver as aforesaid without having obtained such licence, or during the time that his licence is suspended, or if he lend or part with his licence, except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended, as herein-after provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty.*

If you have allowed an unlicensed driver to drive your Hackney Carriage, you have committed an offence and this matter will be taken further.

However, if the driver you nominated is licensed with Torbay Council, the above offence has not been committed, but please can you also provide me with a copy of your insurance from the time of the incident to show that the licensed driver was insured.

I look forward to your response and please can you ensure that the requested information is sent to either the above postal address, or, via email, however any correspondence needs to be in writing by no later than **Monday the 18<sup>th</sup> of September 2023.**

Once I have this information, I will be liaising with Devon & Cornwall Police and will come back to you with what action you may face.

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

Yours sincerely



Shaun Rackley  
Licensing Officer

**From:** Rebin Ali [REDACTED]  
**Sent:** Wednesday, September 13, 2023 4:34 PM  
**To:** Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>  
**Subject:** Re: Request for information

Dear Mr Shaun Rackley

Thank you for your email dated 11/09/2023 regarding the case reference above, and the speeding camera on 16/04/2023

I have responded to Devon & Cornwall Police form and told them who drove my car at the time of offence. I give them the name and address of the Driver.

My friend drove it to help my family and myself to do some foods shopping as I was not feeling well, and I couldn't ever get out to bed. I completely forget to remove my taxi plate because of my illness.

My friend [REDACTED] lives in Plymouth from France, and I don't know anything about his license, what I do know he is from France and lives in Plymouth, if mails have been sent back, that means its him sending them back

All I can tell you this was a mistake I made for not taking off my taxi license as I was very ill.

I look forward to hearing from soon

Sent from Yahoo Mail on Android

**From:** Rackley, Shaun  
**Sent:** Tuesday, September 26, 2023 2:27 PM  
**To:** Rebin Ali [REDACTED]  
**Subject:** RE: Request for information  
**Importance:** High

Hi Rebin,

Please can you send me the following documents before Monday the 2<sup>nd</sup> of October 2023 to assist me with my investigation.

- Print out from your card machine that should be installed within the Licensed Hackney Carriage, to see what payments were taken between Friday the 14<sup>th</sup> of April to Thursday the 20<sup>th</sup> of April 2023. This can be a print out from the device, or, a bank statement where the card payments get sent to.
- The insurance document showing that [REDACTED] was insured on your vehicle on the 16<sup>th</sup> of April 2023

I look forward to hearing from you in due course.

Regards

Shaun

---

**TORBAY COUNCIL**

**Shaun Rackley** | Licensing Officer |  
Town Hall, Castle Circus, Torquay, TQ1 3DR  
01803 208025 | [shaun.rackley@torbay.gov.uk](mailto:shaun.rackley@torbay.gov.uk)

[www.torbay.gov.uk](http://www.torbay.gov.uk)  
[Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

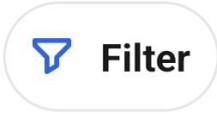
This electronic email is confidential and may also be privileged. If you are not the intended recipient, please notify the sender, and please delete the message from your system immediately. The views in this message are personal; they are not necessarily those of Torbay Council.

# Agenda Item 8

## Appendix 5

**From:** Rebin Ali [REDACTED]  
**Sent:** Thursday, September 28, 2023 1:27 PM  
**To:** Rackley, Shaun <Shaun.Rackley@torbay.gov.uk>  
**Subject:** RE: Request for information

Transactions Payouts



20 APRIL 2023

£55.34

- 


£8.22 >

✔ Paid out · 22:36
- 


£6.30 >

✔ Paid out · 21:26
- 


£8.19 >

✔ Paid out · 20:40
- 


£8.00 >

✔ Paid out · 20:14
- 


£4.62 >

✔ Paid out · 19:10
- 


£6.52 >

✔ Paid out · 18:45
- 


£13.49 >

✔ Paid out · 18:15

19 APRIL 2023

£30.70

 £13.00 >

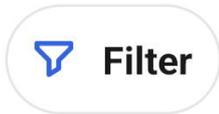


# Sales



Transactions

Payouts



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 Paid out · 22:35

 [redacted] £9.00 >  
 Paid out · 22:12

 [redacted] £8.70 >  
 Paid out · 18:20

16 APRIL 2023

£187.62

 [redacted] £4.44 >  
 Paid out · 21:16

 [redacted] £7.30 >  
 Paid out · 21:13

 [redacted] £5.74 >  
 Paid out · 21:05

 [redacted] £5.76 >



Home



Checkout



Sales

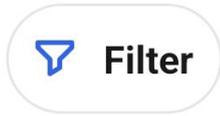


# Sales



Transactions

Payouts



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✔ Paid out · 21:13
- VISA [redacted] £5.74 >  
✔ Paid out · 21:05
- VISA [redacted] £5.76 >  
✔ Paid out · 20:33
- VISA [redacted] £7.00 >  
✔ Paid out · 19:53
- VISA [redacted] £8.60 >  
✔ Paid out · 19:41
- VISA [redacted] £6.00 >  
✔ Paid out · 18:42
- VISA [redacted] £25.00 >  
✔ Paid out · 17:17
- VISA [redacted] £15.00 >  
✔ Paid out · 03:36



Home



Checkout



Sales

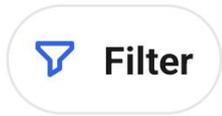


# Sales



Transactions

Payouts



-  [Redacted] £15.00 >  
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-  [Redacted] £14.74 >  
✔ Paid out · 03:10
-  [Redacted] £11.00 >  
✔ Paid out · 02:54
-  [Redacted] £15.66 >  
✔ Paid out · 02:32
-  [Redacted] £14.00 >  
✔ Paid out · 02:15
-  [Redacted] £9.00 >  
✔ Paid out · 01:54
-  [Redacted] £10.00 >  
✔ Paid out · 00:44
-  [Redacted] £8.38 >  
✔ Paid out · 00:39



Home



Checkout



Sales

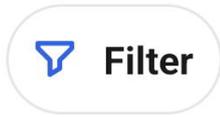


# Sales



Transactions

Payouts




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 Paid out · 00:39


[REDACTED] £20.00 >  
 Paid out · 00:05

15 APRIL 2023 £117.12


[REDACTED] £7.50 >  
 Paid out · 23:13


[REDACTED] £6.66 >  
 Paid out · 22:25


[REDACTED] £6.66 >  
 Unsuccessful · 22:24


[REDACTED] £12.00 >  
 Paid out · 18:34


[REDACTED] £5.00 >  
 Paid out · 17:36



Home



Checkout



Sales



Transactions Payouts

Filter

✓ Paid out · 17:36

MasterCard [Redacted] £5.00 > ✓ Paid out · 16:22

VISA [Redacted] £15.20 > ✓ Paid out · 02:14

MasterCard [Redacted] £20.00 > ✓ Paid out · 01:52

VISA [Redacted] £10.60 > ✓ Paid out · 01:32

VISA [Redacted] £9.28 > ✓ Paid out · 01:23

VISA [Redacted] £12.00 > ✓ Paid out · 00:48

VISA [Redacted] £13.88 > ✓ Paid out · 00:40

14 APRIL 2023 £45.05

Home

Checkout

Sales

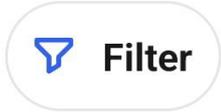


# Sales



## Transactions

## Payouts



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£45.05



£8.22 >  
 Paid out · 21:39



£5.87 >  
 Paid out · 21:04



£5.80 >  
 Paid out · 18:40



£5.13 >  
 Paid out · 18:08



£7.34 >  
 Paid out · 17:57



£6.89 >  
 Paid out · 17:31



£5.80 >  
 Paid out · 16:59

13 APRIL 2023

£79.07



Home



Checkout



Sales



# Sales



Transactions

Payouts

Filter • 1

- £11.00 >  
 ✓ Paid out · 02:54

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- £15.66 >  
 ✓ Paid out · 02:32

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- £14.00 >  
 ✓ Paid out · 02:15

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- £9.00 >  
 ✓ Paid out · 01:54

---

- £10.00 >  
 ✓ Paid out · 00:44

---

- £8.38 >  
 ✓ Paid out · 00:39

---

- £20.00 >  
 ✓ Paid out · 00:05

15 APRIL 2023

£117.12



Home



Checkout



Sales



**Transactions**   Payouts

 Filter • 1

-  [REDACTED] £25.00 >  
✔ Paid out · 17:17
-  [REDACTED] £15.00 >  
✔ Paid out · 03:36
-  [REDACTED] £14.74 >  
✔ Paid out · 03:10
-  [REDACTED] £11.00 >  
✔ Paid out · 02:54
-  [REDACTED] £15.66 >  
✔ Paid out · 02:32
-  [REDACTED] £14.00 >  
✔ Paid out · 02:15
-  [REDACTED] £9.00 >  
✔ Paid out · 01:54
-  [REDACTED] £10.00 >  
✔ Paid out · 00:44

  
Home

  
Checkout

  
Sales



Transactions **Payouts**

🔍 Filter • 1

16 APRIL 2023 £187.62

   
✔️ Paid out · 21:16 £4.44 >

   
✔️ Paid out · 21:13 £7.30 >

   
✔️ Paid out · 21:05 £5.74 >

   
✔️ Paid out · 20:33 £5.76 >

   
✔️ Paid out · 19:53 £7.00 >

   
✔️ Paid out · 19:41 £8.60 >

   
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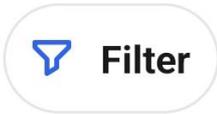
  
Checkout

  
Sales



Transactions

Payouts



14 APRIL 2023

£45.05

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✔ Paid out · 21:39

 [Redacted] £5.87 >  
✔ Paid out · 21:04

 [Redacted] £5.80 >  
✔ Paid out · 18:40

 [Redacted] £5.13 >  
✔ Paid out · 18:08

 [Redacted] £7.34 >  
✔ Paid out · 17:57

 [Redacted] £6.89 >  
✔ Paid out · 17:31

 [Redacted] £5.80 >  
✔ Paid out · 16:59

13 APRIL 2023

£79.07



Home



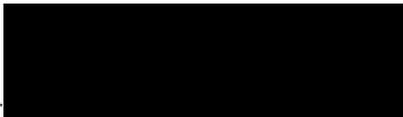
Checkout



Sales

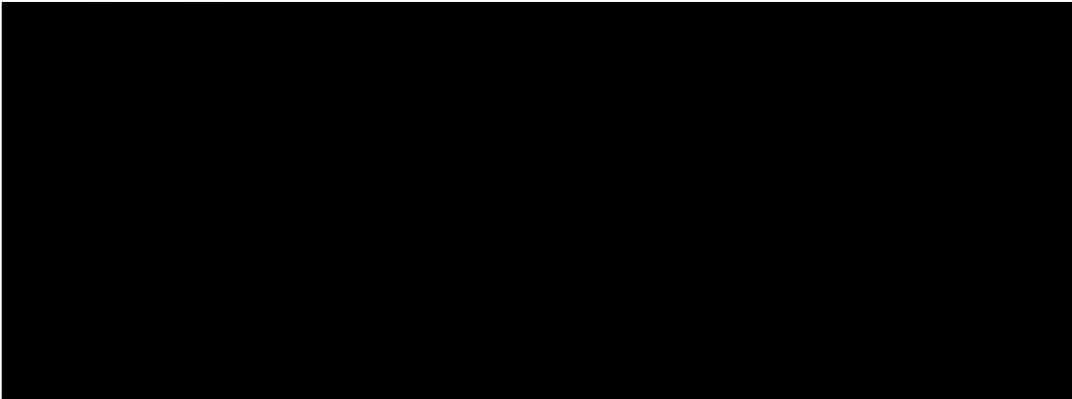


# Certificate of Motor Insurance



Policy No:		[REDACTED]	
Name of Policyholder:	Rebin Mohammed		
Vehicle Registration:	MJ20YVO		
Declared Licencing Authority:	Torbay		
Effective time and date of commencement for the purposes of the relevant Road Traffic Acts:			
Operative Date:	[REDACTED]	Operative Until:	[REDACTED]
<b>PERSONS ENTITLED TO DRIVE AND LIMITATIONS AS TO USE:</b>			
Name:	Use:	Driving Other Vehicles:	Driving Other Taxis:
Rebin Mohammed	[REDACTED]	[REDACTED]	[REDACTED]
Provided that the person holds a licence to drive the vehicle or has held and is not disqualified from holding or obtaining such a licence.			
[REDACTED]			

I hereby certify that the policy to which this Certificate relates satisfies the requirements of the relevant law applicable in Great Britain, Northern Ireland, the Isle of Man, the Isle of Jersey, the Isle of Guernsey and Isle of Alderney. Please see reverse of Certificate for Social, Domestic and Pleasure use in Europe.



Thank you for your email in regard of your investigation please find attached documents as requested

On 16th i worked 4 hours because i was not feeling well

.As you can see on my card machine showing that i did not work on the 17th and the 18th as I was not well.

In regard of [REDACTED] in my policy

He never been on my policy, he had his own comprehensive insurance again I could not check as I was not well at all

Sent from Yahoo Mail on Android

**Please reply to:** Mr Shaun Rackley

Licensing & Public Protection  
Town Hall  
Castle Circus  
Torquay  
Devon  
TQ1 3DR

Mr R Mohammed  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX

**My ref:** SRU:277026

**Your ref:**

**Telephone:** 01803 208025

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

**Date:** 05 October 2023

---

Dear Mr Mohammed,

**Re - Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 offence**

I am writing to you in relation to a Torbay Council licensed Hackney Carriage vehicle (HC151, vehicle registration MJ20 YVO) which you are the proprietor of. I have previously corresponded with you in relation to this incident where you have permitted the above named licensed vehicle to be driven by a suspected un-licensed driver on the 16<sup>th</sup> of April 2023.

It has now been identified the driver in question at the time of the speeding offence was not licensed by this Local Authority, or any other Local Authority. Further to this you cannot provide me with any insurance documents to show this unlicensed driver was insured on the vehicle at the time of the offence.

You have therefore committed an offence under the Town Police Clauses Act 1847 and in addition you have breached Torbay Council's Taxi Policy by allowing the use of your licensed Torbay Council Hackney Carriage vehicle by an un-licensed driver.

I also believe that you have not been forthcoming with the truth over this incident, as in your initial communication you informed me that you was too unwell to drive your vehicle on the date in question. However, when I requested further information from you relating to the card payment terminal within your licensed Hackney Carriage, it clearly shows that the last payment from the card terminal on the 16<sup>th</sup> of April was taken 46 minutes before the speeding offence occurred in Plymouth when you initially declared you was not feeling well and 'couldn't even get out of bed'.

Under the Town Police Clauses Act 1847, Section 47 you have committed the following offence:

***47Penalty on drivers acting without licence.***

*If any person acts as such driver as aforesaid without having obtained such licence, or during the time that his licence is suspended, or if he lend or part with his licence, except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended,*

as herein-after provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty.

Under Torbay Council's Taxi Policy, you have breached the following parts of the Policy:

**APPENDIX B: Driver Code of Conduct**

2 - The driver must not, at any time, when driving a Hackney Carriage or Private Hire vehicle:  
h) Allow any person(s) to drive the vehicle unless they are authorised to do so by the proprietor, hold an appropriate Torbay Council dual drivers licence and are fully insured to do so

**APPENDIX D: Vehicle Specification Standards and Schedule of Conditions**

*Unlicensed Drivers*

Your attention is drawn to section 46 of each of the 1847 and 1976 Acts which require ALL drivers of Hackney Carriage and Private Hire vehicles to hold the appropriate drivers licence as issued by the Licensing Authority and it is an offence which affects the insurance to allow any unlicensed person to drive any licensed vehicle.

Because of the seriousness of the offence and what I believe to be dishonesty surrounding this incident, I must now refer the matter to Torbay Councils Licensing Sub Committee for consideration as to your fit and proper status to remain licensed by this authority.

A hearing date of **Thursday the 26<sup>th</sup> of October 2023 at 09:30hrs** has been set.

In order for me to compile a report to put before members, please can you respond in writing with any mitigating circumstances which you believe will support your case relating to this incident and provide any supporting documents that you have not already sent. This information will be included in the report, however, you will also be invited to attend and address the Committee members on the day and put your case before them.

Please can you return this information by no later than **Thursday the 12<sup>th</sup> of October 2023.**

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

Yours sincerely



Shaun Rackley  
Licensing Officer

Mr Rebin Mohammed

Ref: SRU:277026

Date: 11/10/2023

Mr Shaun Rackley  
Licensing & Public Protection  
Town Hall  
Castle Circus  
Torquay  
Devon  
TQ1 3DR

Dear Mr Shaun Rackley

Thank you for your letter dated 05/10/2023 regarding the case reference above, and the speeding camera on 16/04/2023.

I would like to confirm to you that on my previous email or letter I did mention to you that [REDACTED] was not on my taxi license. I have also said to you that he never been on my insurance policy as he has his own comprehensive insurance.

I have also mentioned on my previous letter that I have made a mistake of not removing my taxi plate on the car.

I have told you the truth that on that day I worked before the incident, I Started not feeling well while I was on the road and I went home and went in bed and my Mrs wanted to do some food shopping and I could not help to drive again or get out of bed that why our friend help us, the next day I did not work for like 3 days I stayed in and I could not get out in bed, I have mention this to you before.

All I can tell you Mr S Rackley, this was a mistake I made for not taking off my taxi license as I was very ill.

I look forward to hearing from soon.

Many thanks

Mr Rebin Mohammed

### Rebin Mohammed – Complaint history

- 29<sup>th</sup> July 2016 – Warning letter issued due to driver inappropriate behaviour. (Letter attached)
- 2<sup>nd</sup> May 2023 – Suspension of Licensed Drivers badge due to no Enhanced Disclosure & Barring Service check in place. (Letter attached)
- 12<sup>th</sup> May 2023 – Suspension of Licensed Drivers badge lifted following supply of Enhanced Disclosure & Barring Service check.
- 21<sup>st</sup> June 2023 - Complaint from member of public concerning Rebin Mohammed's driving standards and attitude. Complaint closed as video provided by customer showed customer being abusive towards Mr Mohammed.



**Please reply to:** Mr Steve Cox

**Community Safety**

c/o Town Hall  
Castle Circus  
TORQUAY  
Devon  
TQ1 3DR

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Mr Rebin Mohammed



**My ref:** R:231260/SJC

**Your ref:**

**Telephone:** 01803 208025

**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

**Date:** 29<sup>th</sup> July 2016

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Dear Mr Mohammed

**Re: Investigation in to an allegation of ‘inappropriate behaviour’ – Local Government (Miscellaneous Provisions) Act 1976**

I am writing to you to confirm the outcome of Torbay Council’s investigation into a complaint made by a hosting family with regard to two taxi journeys taken in your vehicle by young foreign students on the 10<sup>th</sup> and 12<sup>th</sup> July 2016. The allegations are that you asked them for their phone numbers and whether they used certain social media outlets.

I have liaised closely with the Police and so I am aware of both the allegations and your responses to the Police over these two incidents. I note that you refute the allegations, and since we have no significant evidence to the contrary, the matter will not be taken any further at this time.

I must stress however that these types of allegations raised significant concerns with both the Police and ourselves, as the protection of children remains a priority for us all. If future allegations come to our attention, then this may be sufficient for us to consider whether you remain ‘a fit and proper person’ as laid out in the above Act. Torbay Council does not need a criminal offence to have been committed to revoke a Torbay Council issued Drivers Licence, just simply that there are concerns about the conduct of a driver.

I must therefore stress that both the Police and Torbay Council will be monitoring the situation and therefore I must advise you to act professionally at all times and to avoid any conversations that may be deemed to offer any form of help, support, requests for personal details etc. This should avoid any misunderstanding or future allegations and therefore should ensure your Torbay Council issued Drivers Licence is not put at risk.

If you have any future questions then please do not hesitate to contact me or a member of the Licensing Team.

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

Yours sincerely

A handwritten signature in black ink that reads "Stephen Cox". The signature is written in a cursive style with a large initial 'S' and a distinct 'C'.

Mr Steve Cox  
Environmental Health Manager Commercial  
Licensing and Public Protection

*Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.*

**Please reply to:** Mr Shaun Rackley

Licensing & Public Protection  
Town Hall  
Castle Circus  
Torquay  
Devon  
TQ1 3DR

Mr R Mohammed  
[REDACTED]  
[REDACTED]  
[REDACTED]

**My ref:** DBS/SAR

**Your ref:**

**Telephone:** 01803 208025

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

**Date:** 02 May 2023

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Dear Mr Mohammed,

**Re: Suspension of Torbay Council issued Drivers Licence – LD0255  
Section 61 (1)(B) Local Government (Miscellaneous Provisions) Act 1976**

I am writing to you regarding the non-return of your Enhanced Disclosure & Barring Service (DBS) check.

On the 30<sup>th</sup> of April 2023, a 6 monthly check of your DBS was due as per Torbay Council's Taxi Policy. Unfortunately, we have not been able to check the update service, nor have you produced a new Enhanced DBS check as requested. You have been emailed on 7 (seven) separate occasions dating back to December 2022 regarding obtaining and producing a new DBS check, however, to date we have still not seen this document, therefore, I cannot be satisfied that you remain a fit and proper person to drive a licensed vehicle.

As a result, your licensed driver's badge is now suspended and you are unable to drive any licensed vehicle until your new DBS is received by us and we have given you permission to recommence driving a licensed vehicle.

**Decision:**

Under the powers delegated to me, I am suspending your Torbay Council issued Driver's Licence in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provision Act 1976 and that this suspension shall have immediate effect, in accordance with Section 61(2B) of the Local Government (Miscellaneous) Provision Act 1976 and shall remain in force pending the renewal of your Enhanced DBS check, which must be produced to the Licensing Team.

**Reason for Decision:**

In coming to the decision to suspend your driver's licence, I am resolved that it should be with immediate effect, as in my opinion it is in the interests of public safety to do so. The reasoning for this determination is due to the perceived risk which I believe you may pose in the absence of proof of your previous, or current criminal conduct which forms part of the fit and proper test for licensed drivers.

You must now hand in you Torbay Council issued Drivers Licence immediately as you are not insured to drive following this suspension.

**For the avoidance of doubt you will be guilty of an offence should you drive any Hackney Carriage or Private Hire Vehicle, whether working or not, from the date of this letter.**

You have the right to appeal this decision within 21 days of the date of this letter. Any appeal should be made in writing, stating the grounds for your appeal and sent directly to:

**South Devon Magistrates' Courts  
Nicholson Road  
Torquay  
TQ2 7AZ**

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

Yours sincerely

*R.A. Hind*

Rachael Hind  
Regulatory Service Manager (Commercial)

**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.