



Wednesday, 11 January 2017

## **LICENSING COMMITTEE**

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

**Thursday, 19 January 2017**

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 Thomas (J) (Chairman)

Councillor Barnby	Councillor Parrott
Councillor Brooks	Councillor Pentney
Councillor Cunningham	Councillor Stocks
Councillor Darling (M)	Councillor Stubley
Councillor Doggett (Vice-Chair)	Councillor Sykes
Councillor Ellery	Councillor Thomas (D)
Councillor King	Councillor Tolchard

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**A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

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# LICENSING COMMITTEE AGENDA

1. **Apologies**  
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 5)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 12 May 2016.
3. **Declarations of interest**
  - (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.)
4. **Urgent items**  
To consider any other items that the Chairman decides are urgent
5. **Taxi Policy Changes** (Pages 6 - 74)  
To consider a report that seeks minor amendments to the Hackney Carriage and Private Hire Licensing Policy.
6. **Wheelchair Accessible Vehicles** (Pages 75 - 96)  
To consider a report that reviews the need and work done to increase the percentage of wheelchair accessible vehicles within the Hackney Carriage and Private Hire Fleets.
7. **Delegated Powers - Licensing Act 2003** (Pages 97 - 99)  
To consider a report that informs Members of the decisions taken in relation to Licensing Act 2003 applications.

**8. Delegated Powers - Gambling**

(Pages 100 - 102)

To consider a report that informs Members of the decisions taken in relation to Gambling Act 2005 applications.



## Minutes of the Licensing Committee

12 May 2016

-: Present :-

Councillors Barnby, Brooks, Cunningham, King, Stubbley, Sykes, Tolchard, Doggett (Vice-Chair), Stocks, Ellery, Parrott and Thomas (D)

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### 23. Election of Chairman/woman

Councillor Thomas (J) was elected Chairman for the Municipal Year 2016/2017 in his absence.

### 24. Appointment of Vice-Chairman/woman

Councillor Doggett was appointed Vice-Chairman for the 2016/2017 Municipal Year, and chaired the meeting in Councillor Thomas' (J) absence.

### 25. Apologies

Apologies for absence were received from Councillors Darling (M) and Pentney.

### 26. Minutes

The Minutes of the meeting of the Licensing Committee held on 18 February 2016 were confirmed as a correct record and signed by the Chairman.

### 27. Hackney Carriage Tariff

Members considered a report that detailed a request from the Torbay Licensed Taxi Association to increase the applicable fare tariff in respect of all Hackney Carriages in Torbay. Members were advised that before any change to the fare tariff could be made a public advertisement had to be placed for 14 days, should objections be received, these responses must be considered by a Licensing Sub-Committee before any increase can take effect.

Resolved:

- i) that the appropriate Public Notices are placed to advertise the requested increase in the Hackney Carriage Fare Scale, as set out in appendix 1 to the submitted report;
- ii) that any responses to the Public Notice be considered by a Licensing Sub-Committee; and

- iii) in the event that no objections are received, the new tariff will take effect from the 1 July 2016.

**28. Delegated decision report - Licensing Act 2003**

Members noted a report that informs Members of the decisions taken in relation to Licensing Act 2003 applications by the Assistant Director of Community and Customer Services under delegated powers.

The report also informed members of Torbay Council's response to the Government's Personal Licences consultation. Members sought clarification from the Principal Safety and Licensing Officer as to whether any increases in fees would be ring fenced for use by Licensing or placed in the Council's wider general fund.

**29. Delegated decision report - Gambling Act 2005**

Members noted the report that informed Members of decisions taken in relation to Gambling Act 2005 applications by the Assistant Director of Community and Customer Services under delegated powers. Members sought further information from the Principal Safety and Licensing Officer as to the number of fixed odd betting terminals in the Bay.

**30. Establishment of Licensing Sub-Committee**

The Committee considered a report that sought to establish a Licensing Sub-Committee to deal with all matters in connection with licensing applications.

Resolved:

- i) that a sub-committee of the Licensing Committee be established to comprise three Members of the Licensing Committee;
- ii) that the terms of reference of the sub-committee be to consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles);
- iii) that the Licensing Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations; and
- iv) that the Governance Support Manager be authorised to empanel Members from the Licensing Committee to serve on the Licensing Sub-Committee as and when required.

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Chairman/woman



Public Agenda Item: **Yes**

Title: **Hackney Carriage and Private Hire Licensing Policy 2013**

Wards Affected: **All**

To: **Licensing Committee**                      On: **19 January 2017**

Key Decision: **No**

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

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E.mail: **Gary.oshea@torbay.gov.uk**

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## 1. What we are trying to achieve

1.1 This report seeks Members agreement to minor amendments to the Hackney Carriage and Private Hire Licensing Policy which came into effect on 1 May 2013.

## 2. Recommendation(s) for decision

2.1 That the Licensing Committee agrees to:

The changes to the Hackney Carriage and Private Hire Licensing Policy 2013, as highlighted in **Appendix A** and that these take immediate effect.

## 3. Key points and reasons for recommendations

3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.

3.2 The current Hackney Carriage and Private Hire Licensing Policy 2013 was implemented in order to assist the licensing authority in reaching decisions by clearly defining those matters that should be taken into account during the application process. It also provides clear advice and guidance as to standards that are expected of drivers and applicants and provides information to the general public.

- 3.3 A number of minor amendments have been identified, which are highlighted in **Appendix A**.
- 3.4 The changes are interim changes in lieu of a full review of the policy that is planned for May of this year. These have been brought about due to changes in circumstances that have overtaken the current policy thus rendering it out of date. These matters are described in **Appendix A**.
- 3.5 As these are policy changes, any subsequent legal challenge would be by way of a Judicial Review. This is considered unlikely for the nature of the proposed amendments.

**For more detailed information on this proposal please refer to Appendix A.**

**Frances Hughes**  
**Assistant Director Community and Customer Services**

## Appendix A – Supporting information to Report

### A1. Introduction and history

- A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.2 The current Hackney Carriage and Private Hire Licensing Policy came into force on 1 May 2013. A number of minor amendments have been identified, which are highlighted below. These have been necessitated to some degree by changes in circumstances.
- A 1.3 The most significant change has been brought about by a change in legislation, whereby the Council is now required to issue Driver licences for a period of three years and Operator licences for a period of five years by virtue of Section 10 Deregulation Act 2015. Whilst the periods of 3 and 5 years respectively should in law be considered to be the norm, there is some scope for a lesser period as the legislation states: *“for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”*.

The Licensing Authority has already commenced the issuing of three year licences, however, in order to ensure that processes remains as streamlined as possible for the benefit of the licensing authority and drivers alike, it is proposed that driver licences be changed to three year terms from the renewal date that corresponds to the date that the next DBS (criminal records check) is due. Some licences are already issued for three years and this means that the remainder will be converted to three year licences as of 1 May 2017 and 1 May 2018 meaning that by 2018 all drivers will hold a three year licence and in all cases the DBS will be due at renewal. This will provide clarity and an efficient means of ensuring all checks are up to date so as to promote public safety.

In the interests of fairness, not least because the cost of a three year licence pro rata is less than the cost of a one year licence, any driver not due a DBS (and therefore proposed to have a one year renewal) on renewal this year (2017) will be given opportunity to apply for a three year licence, however, this would be on strict condition that they undertake a new DBS so that this will always correspond with their licence renewal date.

The above will result in a change to the policy at 9.1 and 9.3 with regard to drivers as follows:

#### **Current 9.1**

The Licensing Authority issues one or three yearly licences or part thereof to new applicants in accordance with Torbay Councils licensing year which currently runs from the 1<sup>st</sup> May to 30<sup>th</sup> April.

### **Proposed 9.1**

*Once the licensing authority is satisfied that any applicant for a new driver licence is a 'fit and proper' person, a licence will be issued for a period of up to 3 years. However, all licences run from 1<sup>st</sup> May and expire on 30<sup>th</sup> April; this means that any licence issued after 1<sup>st</sup> May will be valid for between 2 and 3 years dependent on when it is granted e.g. a licence issued on 1<sup>st</sup> September 2017 would expire on 30<sup>th</sup> April 2020 (as if it were granted on 1<sup>st</sup> May 2017 – valid therefore for a period of 2 years and 8 months).*

### **Current 9.3**

The Licensing Authority will issue an annual or three yearly licence to existing licence drivers, upon receipt of a completed application, which will be issued for the period of 12 or 36 months running from the 1<sup>st</sup> May to the 30<sup>th</sup> April.

### **Proposed 9.3**

*All renewals effective from 1 May 2017 will be issued for a 3 year term where a DBS is required. Renewals where a DBS is not yet due will be issued for a 1 year term up until 30 April 2018 when the next DBS is due, at this stage renewal will be for a 3 year term. Any driver not due a DBS in the current year may request a 3 year renewal, although this will be on condition that a new DBS is applied for in order to ensure that the date of licence renewal always corresponds with the date of the next DBS.*

Given the current method of issuing Operator licences, some thought needs to be given as to how the transition to 5 year terms can be best managed. It is proposed therefore that these should remain unchanged pending a full review of policy in May this year and for any new measures to become effective from the next available date of renewal, this being 1 May 2018.

- A1.4 Given advances in technology and a move towards improving safety of both the travelling public and drivers alike, there is a growing trend towards CCTV systems being installed in licensed vehicles. Perhaps not surprisingly such use of potentially personal and/or covert information is strictly governed through the surveillance Commissioner.

The current Hackney carriage and Private Hire Licensing Policy already recognises the use of CCTV although it makes clear that such use remains at the discretion of the individual owners/drivers. Clearly the requirements of the Data Protection Act 1984 are spelt out in the policy and users are reminded of their legal requirement to ensure that they are fully compliant with regulation surrounding the use of recording equipment.

At the time the policy was written, there was only one known company that provided equipment that fully fulfilled legal requirements, however, over the last few years with the evolutions in technology and the increasing popularity of CCTV equipment, other companies have emerged onto the scene. It is therefore proposed to alter condition 14.35 of the policy as follows:

### **Current 14.35**

Taxicam equipment is the only equipment that currently meets the requirements set out in paragraph 14.34 (above) for installation in vehicles at this time. The permission to use any other equipment would need to be obtained from a senior officer in the Council's licensing authority.

### **Proposed 14.35**

CCTV equipment when installed in vehicles must meet the requirements set out in paragraph 14.34 (above). Permission to use such equipment does not need to be obtained from the licensing authority. However, it is the responsibility of the owner/proprietor of each vehicle to ensure full compliance with all responsibilities and regulation concerning use of recording equipment. Therefore, in case of any doubt, it is strongly recommended that any owner/proprietor should contact the licensing authority prior to any purchase and installation.

- A 1.5 In February 2016, the licensing authority moved to a system of Driver Standards Agency (DSA) Practical Driving Tests for all new drivers. Whilst this is a requirement when being licensed for the first time, the capacity of the Driver and Vehicle Licensing Agency (DVLA) to conduct the tests was unable to meet demand within a reasonable time span. Therefore, new drivers have been permitted to obtain a licence on condition that a DSA test is undertaken within the first 6 months. Failure to provide satisfactory evidence that the test has been taken, results in revocation of the drivers licence.

The licensing authority was notified by the DVLA in late 2016 that as of 31 December 2016, they would no longer be conducting these tests due to a National increase in demand that they were no longer able to meet. This has resulted in a need to find an alternative provider, in which regard, officers have worked closely with other Devon colleagues and secured an alternative provider, who will also be able to link the DSA training with Child Sexual Exploitation (CSE) training, which will strengthen the vetting of new drivers, particularly in light of the Rotherham findings and ensure that the process is not too onerous or restrictive on anyone wishing to enter the trade.

Whilst the above is subject to a short procurement process, it does mean that Torbay can maintain consistency with the majority of Devon partners and ensure adequate training of drivers in its efforts to safeguard the public. It is proposed that DSA and CSE training for new drivers will be available as soon as the end of February and this should not impact too much on ensuring that drivers meet the 6 month deadline in the short term moving towards undertaking the tests prior to licensing in the short to medium term i.e. by mid-year as a guide.

- A 1.6 Members of the Licensing Committee held on 18 February 2016 resolved that: *“the Environmental Health Manager (Commercial) be requested to explore options to roll out the requirement to obtain Driver Standards Agency (DSA) Practical Driving Test to existing drivers in the future (for example via renewals).*

This has been explored although was not something that was practical given the lack of capacity of the DVLA in providing the tests. Moreover there is a question as to whether it would be totally lawful to request that existing drivers undertake additional testing.

There would be a case for an existing driver, who has already be licensed on the basis that they are considered to be ‘fit and proper’ to challenge any move at such additional tests if they were able to show an unblemished licensed history as questions could be raised as to why they were considered ‘fit and proper’ at one stage only to be asked to undertake additional testing of driving awareness and ability in order to continue operating as a licensed driver.

The current policy already provides at 5.11 for existing drivers to be 'called in' for additional testing under certain circumstances where it states:

**Existing 5.11**

*Where an existing licensed driver receives over 6 (six) endorsement/s or penalty points on their licence within each licensing year, the Licensing Authority will require that person to undertake the same assessment. If this is not obtained within 3 months, then the existing licensed drivers badge will be suspended until the necessary driving standards assessment is completed.*

Whilst this element of the policy will be kept under review, there have been no concerns raised to date pertaining to existing drivers that would raise any question as to whether additional training is required. It is therefore proposed that the policy in respect of existing drivers should remain unchanged at this time.

A 1.7 Notwithstanding the above (A1.6), Members will be aware of National concerns over child sexual exploitation and the serious offenses outlined in the news over abuse that went on in Rotherham, Oxford and other places. Part of the investigation of these atrocities, particularly with regard to Rotherham highlighted an extreme lack of care and awareness in a number of areas. One such area was that of Hackney Carriage and Private Hire licensing, where it was shown that drivers were either unaware of, or worse ignoring, signs of abuse and grooming. Training programs have therefore been rolled out in various authorities, including Torbay. Members of the alcohol trade have already received training and advanced talks have taken place with a provider to expand this to licensed drivers.

It has already been highlighted in A1.5 how CSE training is intended to be rolled out for new drivers. However, given concerns that came out of these key investigations, it is to be proposed in the full review of the policy in May of this year that all existing drivers must undertake CSE training. However, one provider is able to provide free training at this stage and therefore all existing driving are to be invited over the next few months to a free session. Whilst they cannot be made to attend, there will be a charge for training from April this year and it is hoped therefore that as many as possible will take advantage of the free sessions.

A1.7 As these are policy changes, legal challenge would be by way of judicial review. This is considered unlikely for the proposed amendments.

**A2. Risk assessment of preferred option**

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

There is no significant risk, as there are no significant policy changes being implemented by this Licensing Committee.

**A3. Options**

A3.1 There are two other options:

- (i) Members to implement the policy changes outlined above;
- (ii) Members to implement amended policy changes;
- (iii) Members refuse the recommendation.

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

A4.1 There are no resource implications for the approval of the recommendation, as they are generally minor in nature.

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

A5.1 There are no crime and disorder, equality or sustainability issues regarding this report.

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

A6.1 There has historically been limited consultation with users, notably regarding the changes to Driving Standards Agency (DSA) Practical Driving Test. However, as these changes have been brought through necessity and/or are minor in nature there has been no consultation in lieu of this report. There will however, be a full public consultation prior to a proposed major review of the policy in May of this year.

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

A7.1 There are no significant implications for other business units, if the recommendations are supported.

### **Annexes**

Annex 1                      DRAFT Hackney Carriage and Private Hire Licensing Policy 2017

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

None

#### **Background Papers:**

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

Hackney Carriage and Private Hire Licensing Policy 2013

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## **Foreword**

This section does not form part of the policy and is for information purposes only.

This Policy will guide the Council, as the “Licensing Authority” when considering applications under the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on Torbay Council the duty to carry out its licensing functions in respect of hackney carriages and private hire vehicles.

We would encourage all those involved in the taxi trade, service users, residents and community groups to take time to read this consultation document and put forward representations whether in support of or against any aspect of this Policy.

### Torbay Council Equality

We are committed to acknowledging the full diversity of our community and to promoting equality of opportunity for everyone in Policy making, service delivery, employment practice, regulation and enforcement.

If you have any questions or queries about this document:

#### **Write to us at:**

Licensing Section  
C/O Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

**Or contact us by fax or email or via our website on:**

**Phone:** 01803 208025  
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**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

## Licensing Authority Area

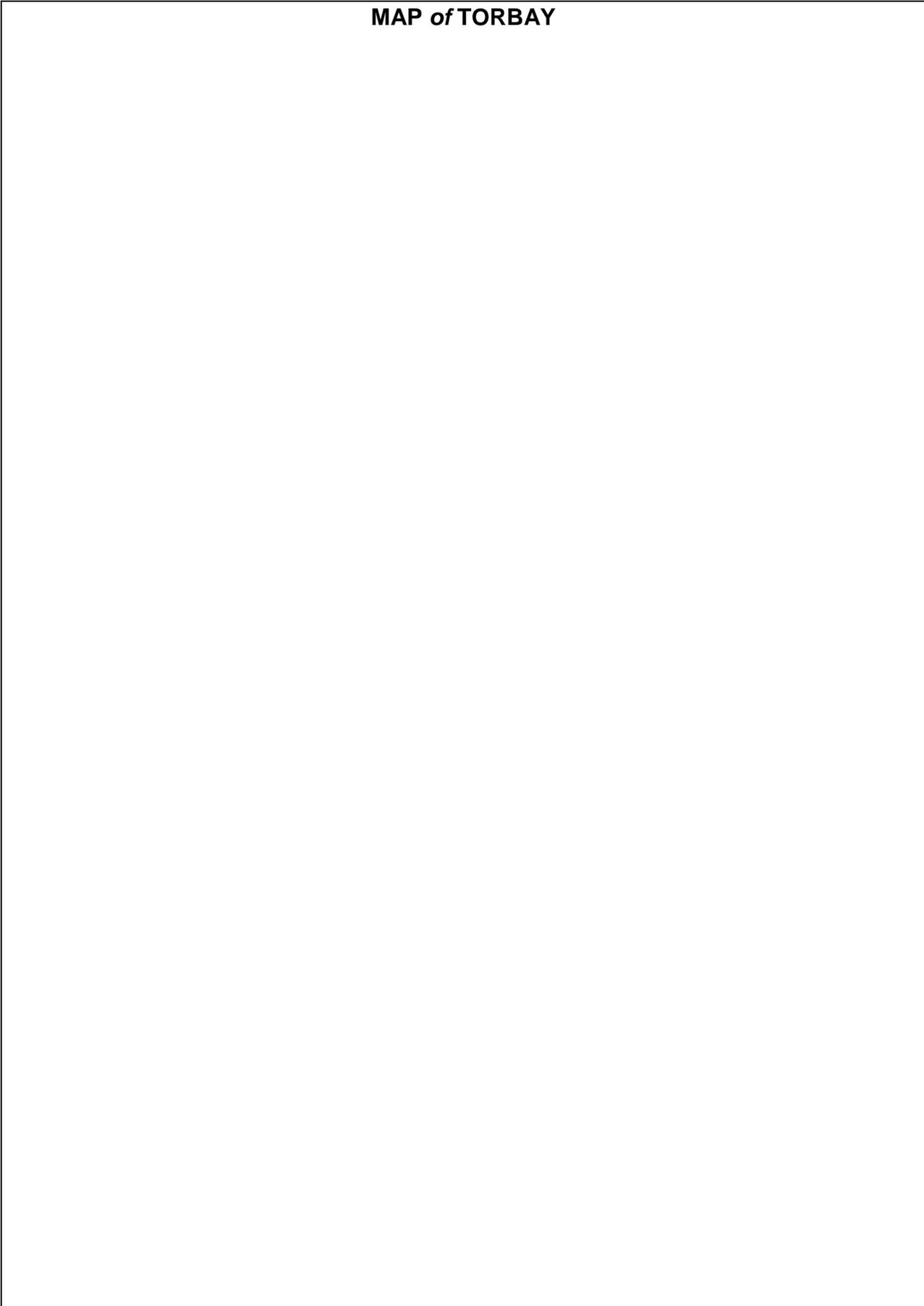
Torbay is situated on the South Devon coast, on the south west peninsular of England and comprises the three towns of Torquay, Paignton and Brixham. Torbay is an outstanding coastal destination, including 22 miles of coastline which has shaped its economic and social development over time. Historically the local economy has focused on tourism, fishing and to a lesser extent manufacturing activities.

The three towns of Torbay and its environs have a combined population of around 134,000, making Torbay the second largest conurbation to the south west of Bristol. Tourism in Torbay today accounts for 1.45 million staying visitors plus 3.8 million day visitors, generating a direct and indirect spend of £442 million per annum. This represents around one third of the area's wealth and also one third of its jobs.

Torbay Council is committed to a broad corporate vision for Torbay and through the Torbay Strategic Partnership the Council has formulated a Community Plan, built around the principles of creating and developing an area that:

- Is prosperous area known to be a great place to live and learn and grow up in.
- Is able to compete on a world stage in our traditional industries of tourism and fishing.
- Communities know and support each other and enjoy some of the best quality of life in England.
- Widens opportunities and provides high quality employment and retains our young people in the Bay.
- Celebrates the differences in the three towns, builds on the strengths of these towns and brings back the feel good factor.

**MAP of TORBAY**



## Introduction

Hackney carriages and private hire vehicles are an important mode of local transport, and as such, have a specific role to play in an integrated transport system. They are able to provide safe, secure and comfortable transport, providing an on-request door-to-door service in various circumstances, including where public transport may not be available (e.g. in very rural areas), or for those with mobility difficulties.

The aim of the Policy is to regulate the provision of a robust taxi and private hire licensing system, which ensures that the public travel safely, receive a good level of service and drivers and operators are not overly burdened by unnecessary conditions.

In setting out its Policy, the Licensing Authority seeks to promote the following objectives:

- The safety and health of drivers and the public;
- Vehicle safety, comfort and access;
- To prevent crime and disorder and to protect the public;
- To encourage environmental sustainability.

Public safety is paramount, and this Licensing Authority seeks to ensure through its licensing regime that all taxi and private hire vehicles are fit for purpose and that their drivers and/or operators are fit and proper persons.

This Policy provides information and guidance to licence applicants, clarity for licensed vehicle owners, drivers and operators and the public as to the way that the Licensing Authority will undertake its licensing functions. In addition, the Policy document seeks to assist the Licensing Authority in reaching a decision on a particular application or as regards a particular enforcement issue, setting out those matters that will normally be taken into account.

This Policy will be kept under review to take into account changes in legislation and best practice. Information collated over a period of time, coupled with the outcomes of any updates in legislation or associated government guidance. The policy and supporting appendices to the Policy may be updated from time to time, and therefore, applicants and all other interested persons are advised to contact the Licensing Department for up-to-date information; however information of changes will be given to applicants at annual renewal.

In the preparation and publication of this Policy the Licensing Authority has had regard to the following:

- Guidance issued by the Department for Transport (“Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” – Edition March 2010).
- Relevant legislation.
- Existing Torbay Council Taxi Handbook
- Discussions benchmarking with Partner Agencies and other Local Authorities
- Consultation with Taxi Trade
- Licensing Objectives.

**Nothing in this Policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.**

## **Hackney Carriage and Private Hire Licensing Policy**

### **1. Introduction**

- 1.1 This Policy is written pursuant to the provisions of the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976, as amended, Transport Act's of 1980 and 1985, which places on Torbay Council the duty to carry out its licensing functions in respect of hackney carriages and private hire vehicles.
- 1.2 It is recognised that other legislation exists which impact on taxi licensing, such as the Equality Act 2010, and therefore aspects of this Policy pay regard to these additional legislative requirements.
- 1.3 The Policy takes effect from 1<sup>st</sup> May 2013.
- 1.4 The Policy relates to hackney carriage and private hire vehicle licensing and the licensing of drivers and operators.
- 1.5 The purpose of this Policy is to assist the Licensing Authority in reaching a decision on any particular application, and in setting out those matters that are normally taken into account. Additionally, the document seeks to provide clear advice for licence holders in terms of the standards expected, and also to provide general advice to service users and the general public.
- 1.6 The Policy is subject to periodic review every five years. Any major changes to the Policy made between review periods will be preceded by public consultation.
- 1.7 Any changes in legislation will supersede this policy.

### **2 Licensing Objectives & Related Legislation**

- 2.1 The Licensing Authority is committed to ensuring the provision of a professional hackney carriage and private hire service, by continued monitoring and improvement of standards and procedures. The Licensing Authority also seeks to promote the following objectives when considering applications, or when assessing the continuance of an existing licence.
  - **The safety and health of drivers and the public;**
  - **Vehicle safety, comfort and access;**
  - **To prevent crime and disorder and to protect the public;**
  - **To encourage environmental sustainability.**
- 2.2 In promoting these objectives, considerations such as those set out at Para's 2.3, 2.4, 2.5 and 2.6 of the Policy will be taken into account by the Licensing Authority, and applicants and licence holders will be expected to continuously demonstrate that they can meet or exceed specifications set by the Licensing Authority.

### 2.3 Safety and Health of Driver and the Public:

- Consideration of any convictions and/or cautions;
- Driver training, qualification and performance;
- Health and fitness of applicant for driver licence, or existing licence holder;
- Regular driver health checks;
- Vehicle specifications;
- Knowledge of the geographical area of Torbay.

### 2.4 Vehicle Safety, Comfort and Access:

- Standards of vehicle appearance and comfort;
- Use and location of ranks;
- Provision of disabled facilities;
- Provision for all age groups;
- Provision of safe and comfortable premises for customers to use, if applicable.

### 2.5 To Prevent Crime and Disorder and to Protect the Public:

- Vetting, qualification, training and monitoring of licence holders;
- Operating rules and disciplinary processes;
- Measures to prevent noise and light nuisance from taxi activities;
- Commitment to work with Licensing Authority, Police and other statutory authorities.

### 2.6 To Encourage Environmental Sustainability:

- Investigate alternative fuels and conversion systems;
- Investigate the potential for providing an environmental levy or reducing licence fees for cleaner vehicles;
- Involve Taxi Trade in identifying ways to reduce vehicle emissions;
- Consideration of suitability of vehicles that are unable to comply with Euro Technology (or equivalent standard) requirements.

2.7 The Licensing Authority is aware that applying licensing requirements which are unduly stringent may unreasonably restrict the supply of taxi and private hire services, and can lead to negative safety implications. Therefore, the Licensing Authority has considered each of its licensing requirements in relation to the proportion of risk it aims to address.

2.8 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the Policy. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Vehicle and Operator Services Agency (VOSA) towards the promotion of the objectives of this Policy.

2.9 In undertaking its licensing function, the Licensing Authority will have regard to the following legislation:

- Town and Police Clauses Act 1847
- Transport Act 1980 & 1985

- Road Traffic Acts
- The Local Government (Miscellaneous Provisions) Act 1976, as amended
- Environmental Protection Act 1990
- Health Act 2006
- The Smoke-free (Premises and Enforcement) Regulations 2006
- The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007
- The Equality Act 2010
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002

2.10 The Licensing Authority will also have regard to any other relevant legislation, strategies, policies and guidance in its decision-making.

### **3. Consultation**

3.1 Before determining this Policy, the Licensing Authority will consult with numerous persons and organisations including the following:

- Taxi Trade within the area of Torbay
- Taxi Trade Representative/s
- Department for Transport (including VOSA)
- Driving Standards Agency
- Chief Officer of Police, Devon & Cornwall Constabulary
- Torbay Council's Environmental Health Department, Highways Transport Services, Development Control Department, Community Safety Team
- Town Councils within the area of Torbay
- Citizens Advice Bureau
- Age UK Torbay
- Living Options Devon
- Torbay Disability Information Service

3.2 Consultees are permitted to make representations in writing or via electronic means e.g. email response. Proper weight will be given to the views of all consulted prior to this Policy taking effect.

### **4. Departure from Policy**

4.1 In exercising its discretion in carrying out its functions, the Licensing Authority will have regard to this Policy and the objectives set out therein.

4.2 Where it is necessary for the Licensing Authority to depart significantly from this Policy, clear and substantive reasons for doing so will be given.

## **5. Drivers**

### General Licensing Requirements

- 5.1 It is a legal requirement that drivers of either hackney carriages or private hire vehicles obtain from the Licensing Authority a licence to drive such vehicles.
- 5.2 The Licensing Authority issues Joint Driver Licences, enabling drivers to operate either a hackney carriage or a private hire vehicle, without the need to obtain a separate driver licences.
- 5.3 The Licensing Authority will issue a licence to an applicant provided that the applicant has held an EEA (E.G.) European Union (EU) full driving licence for at least 12 months, and is a “fit and proper” person to hold such a licence.
- 5.4 When determining whether a person is “fit and proper”, the Licensing Authority will consider the applicant’s knowledge of the local area, their driving experience, driving qualifications, medical fitness, criminal record and their previous history as a licensed driver or operator and any other matter considered relevant to ensure the safety of the public and the driver.

### **Age & Experience**

- 5.5 The Licensing Authority will not have regard to the age of an applicant when determining their suitability where it can be shown that:
- The applicant holds a valid full UK driving licence (licence issued in accordance with Part III of the Road Traffic Act 1972 (as amended) and that this licence must have been held for no less than 12 months at the time of application).
  - The applicant has reached the required medical standards entitling them to drive in the United Kingdom.
- 5.6 An applicant who meets the licensing requirements by virtue of an acceptable non-UK driving licence must either:
- Obtain a full UK driving licence within 12 months of the issue of the hackney carriage/private hire driver licence, or
  - Obtain a ‘backing sheet’ e.g. counterpart from the DVLA within 12 months of the issue of the hackney carriage/private hire driver licence which can be attached to the non-UK driving licence and used by the DVLA to monitor endorsements or penalty points obtained whilst driving in the UK.
- 5.7 Where the requirement in Para 5.6 above is not satisfied, the subsequent licensed driver application or renewal application will not be accepted.
- 5.8 Applicants are advised to note that immigration checks may be carried out and may take some time to be finalised and that until such checks are concluded, they are not permitted to work as a licensed driver.

### **Driver Knowledge and Proficiency**

- 5.9 Licensed drivers require a good working knowledge of the geographical area in which they operate in order to meet reasonable customer expectations. The

Licensing Authority, in an effort to determine the fitness of an applicant to hold a driver licence, requires that applicants undertake a computer knowledge test and written test which examines their knowledge of local geography and knowledge of the Highway Code. This test is carried out at a place determined by the Licensing Authority.

- 5.10 Licensed drivers, as a profession, have a responsibility for the safe transportation of fare-paying passengers. Therefore, the Licensing Authority as part of its application procedure requires a Driving Standard Assessment of the drivers' ability and must be obtained by all new applicants, within 6 months of the date of their first granted Licence. A confirmation certificate of this successfully completed assessment must be submitted to Torbay Council's Licensing Department within the said 6 month period. Failure to do so will result in the automatic revocation of the issued Licence. Where this occurs, the Licensing Authority will not refund the fee paid for the said Licence.
- 5.11 Where an existing licensed driver receives over 6 (six) endorsement/s or penalty points on their licence within each licensing year, the Licensing Authority will require that person to undertake the same assessment. If this is not obtained within 3 months, then the existing licensed drivers badge will be suspended until the necessary driving standards assessment is completed.
- 5.12 The driving assessment is achieved by successful completion of the appropriate Driving Standards Agency (DSA) Practical Driving Test. The test is reflective of modern driving practices; the standard is set at a level suitable for the full driving licence holder, which is therefore of a higher level than the learner driver test.
- 5.13 The Licensing Authority has no current plans to make it a mandatory requirement for a driver to obtain a professional qualification – e.g. a BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire; however, the Licensing Authority would encourage drivers to undertake this qualification as a matter of good practice.
- 5.14 The Licensing Authority aspires that all drivers are trained to BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire standards or equivalent qualification which includes disability awareness training in both mental and physical issues.
- 5.15 The Licensing Authority at its discretion may require specific training to be undertaken where deemed appropriate. This training may include disability awareness, manual handling and equalities awareness.

### **Medical Examination and Exemptions**

- 5.16 The Licensing Authority requires that all drivers complete a medical examination at the application stage and for existing drivers during the term of the licence, as set out in Para 5.16 below. The medical examination will ensure that the applicant/licensed driver satisfies all the requirements of the DVLA Group II Medical Standards of fitness to drive. The applicant/licensed driver should ensure that the G.P practice at which they are registered undertakes the necessary medical examination.

- 5.17 The requirement for applicants/licensed drivers as regards to medical examination is as follows:
- Upon application
  - Every 5 years between the ages of 45 and 65
  - Every year at renewal where the driver is aged 65 years or over
  - Or anytime as required by the Council or the medical practitioner.
- 5.18 Where there is any doubt as to the medical fitness of the applicant/licence driver, the Licensing Authority may require the applicant/licence driver to undergo a further medical examination by a Doctor appointed by the Licensing Authority at the applicant's/licence driver's own expense.
- 5.19 Where there remains any doubt about the medical fitness of the applicant/licenced driver, following the additional assessment described at Para 5.17 above, the Licensing Authority will have regard to the further medical evidence when making a final decision as to the suitability of the applicant/licence driver to drive a hackney carriage or private hire vehicle.
- 5.20 All licence drivers are required to inform the Licensing Authority immediately of any illness, condition or any other matter that affects their ability to drive.
- 5.21 Exemption from carrying guide, hearing and certain other assistance dogs which accompany disabled persons, can only be sought on medical grounds. Therefore, applicants will need to demonstrate the grounds for applying this exemption by providing medical evidence to the Licensing Authority.
- 5.22 An application for the exemption described in Para 5.20 above must be made prior to undertaking a medical examination.
- 5.23 If an application for exemption notice is successful, the Licensing Authority will issue to the driver a Notice of Exemption. This Exemption must be exhibited in the vehicle at all times, by fixing it in a prominent position on the vehicles dashboard.

## **6. Disclosure & Barring Service Disclosures (DBS) – (Formerly CRB)**

- 6.1 The Licensing Authority requires that all applicants and licence drivers complete an enhanced DBS check on application and every three years, as part of the renewal application process. The Licensing Authority shall at their discretion, accept an enhanced DBS check obtained for another employment position. However the enhanced DBS must be no older than 60 days when produced to the Licensing Authority for consideration.
- 6.2 Since March 2002, hackney carriage and private hire drivers have been listed as Regulated Occupations in the Rehabilitation Act 1974 (schedule 1, Part III). The effect of this in relation to hackney carriage and private hire drivers is to render the Rehabilitation of Offenders Act 1974 inapplicable. Therefore any caution and/or conviction, regardless of their age, will be taken into consideration by the Licensing Authority when assessing the suitability of a new or renewal application.

- 6.3 In addition to the 3 year DBS check covered under Para 6.1 above, the Licensing Authority shall require a five year background check for all new applicants. It is a requirement of the DBS that if an applicant has lived abroad for any period of time in the last five years or is from an (EEA) Member State or other country, then a Certificate of Good Conduct (or equivalent) authenticated and translated by the relevant embassy is required. The DBS website ([www.homeoffice.gov.uk/dbs](http://www.homeoffice.gov.uk/dbs)) provides information about obtaining these certificates, or similar documents from other countries.
- 6.4 Failure to inform the Licensing Authority immediately, or within 5 working days of any convictions, cautions and fixed penalty notices during the licensing application and/or licensing period (i.e. once the licence is granted) may result in suspension or revocation of the driver licence. Similarly, where convictions, cautions or fixed penalty notices are notified, depending on the nature of the infraction, this may result in suspension or revocation of the driver licence.
- 6.5 The Licensing Authority may, where necessary, require licensed drivers to submit an additional enhanced DBS check at the licensed drivers cost. The Licensing Authority will not require this, unless it has good reason to do so – for example, the reasonable belief that the licensed driver has a criminal conviction not notified to the Licensing Authority. Failure to provide this additional enhanced DBS check may result in the licence being immediately suspended or revoked.
- 6.6 All applicants for the grant/renewal of a licence requiring a enhanced DBS check, or by request during the licence period, as set out in Para 6.5 above, shall be responsible for the costs of obtaining the enhanced DBS check.

## **7. Relevance of Convictions, Cautions, Fixed Penalties and other relevant information**

- 7.1 The Licensing Authority when considering convictions and cautions recorded against an applicant or an existing licensed driver will have regard to the “Convictions & Cautions Policy” set out in **Appendix A**.
- 7.2 In assessing whether an applicant or licensed driver is a “fit and proper” person to hold a licence, the Licensing Authority will consider each case on its own merit.
- 7.3 Upon receipt of the enhanced DBS check, the Licensing Authority will assess whether any or all of the convictions and/or cautions are capable of having real relevance to the issue of whether or not the applicant or licensed driver is a fit and proper person to hold a licence. The Licensing Authority will also take into account any fixed penalty notices and other information, but only insofar as they are relevant to an application for a licence or impact on the continuance of an existing driver licence. In certain cases, the matter may be referred to the Council’s Licensing Committee for determination.
- 7.4 The Licensing Authority will have regard to fixed penalties when considering if an applicant is a fit and proper person. Failure to inform the Licensing Authority of any fixed penalty notices obtained during the application or licence period may result in possible rejection of the application or suspension or revocation of the licence.

- 7.5 In relation to cautions, the Licensing Authority will have regard to the nature of the infraction when considering their relevance to an application or continuance of an existing driver licence.
- 7.6 In relation to previous convictions, the Licensing Authority will have regard to the following:
- The nature of the offence/s;
  - The age of the offence/s;
  - The apparent seriousness, as gauged by the penalty applied.
- 7.7 In general terms, the more recent, serious and relevant the offence is, the less likely that an application will be granted or that an existing licence will be permitted to remain in effect.

## **8 Change of address**

- 8.1 The licensed driver shall immediately notify the Licensing Authority in writing of any change of address or change of email address, during the period of licence prior to such change taking place, and in any case within 5 working days of such change.

## **9 Grant and Renewal of Driver Licences**

### New Applications

- 9.1 ~~The Licensing Authority issues one or three yearly licences or part thereof to new applicants in accordance with Torbay Councils licensing year which currently runs from the 1<sup>st</sup> May to 30<sup>th</sup> April.~~

*Once the Licensing Authority is satisfied that any applicant for a new driver licence is a 'fit and proper' person, a licence will be issued for a period of up to 3 years. However, all licences run from 1<sup>st</sup> May and expire on 30<sup>th</sup> April; this means that any licence issued after 1<sup>st</sup> May will be valid for between 2 and 3 years dependent on when it is granted e.g. a licence issued on 1<sup>st</sup> September 2017 would expire on 30<sup>th</sup> April 2020 (as if it were granted on 1<sup>st</sup> May 2017 – valid therefore for a period of 2 years and 8 months).*

- 9.2 If any new application cannot be completed in full, within six months, then it will be considered null and void and no refund will be issued. If the applicant wishes to carry on with a new application after this period, they will have to resubmit all the required information again and pay the relevant fee.

### Renewal Applications

- 9.3 ~~The Licensing Authority will issue an annual or three yearly licence to existing licence drivers, upon receipt of a completed application, which will be issued for the period of 12 or 36 months running from the 1<sup>st</sup> May the until 30<sup>th</sup> April.~~

*All renewals effective from 1 May 2017 will be issued for a 3 year term where a DBS is required. Renewals where a DBS is not yet due will be issued for a 1*

*year term up until 30 April 2018 when the next DBS is due, at this stage renewal will be for a 3 year term. Any driver not due a DBS in the current year may request a 3 year renewal, although this will be on condition that a new DBS is applied for in order to ensure that the date of licence renewal always corresponds with the date of the next DBS.*

- 9.4 All three yearly licences will only be issued when a new Disclosure and Barring Service check has also been undertaken.
- 9.5 A renewal application made after 30<sup>th</sup> April will be deemed as a lapse in licence and will result in the application being treated as a new application and not a renewal application. Therefore full application requirements will have to be satisfied.
- 9.6 If an application is made and the Applicant does not meet the requisite criteria, the Licensing Authority will charge a fee to issue a refund in line with Torbay Councils fees and charges.

## **10. Hackney Carriages and Private Hire Vehicles Byelaws**

- 10.1 The Licensing Authority has adopted a number of Byelaws under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 which all drivers must comply with depending on the type of licensed vehicle they are driving. Should it become necessary to enforce such a Byelaw, the Licensing Authority shall draw to the driver(s) attention where a specific byelaw is being breached and in an event of continuance of this breach, the Licensing Authority may initiate prosecution proceedings.

## **11. Driver Appearance**

- 11.1 Whilst working as a licensed driver within Torbay, the Licensing Authority requires a minimum standard of dress code and appearance, this shall apply to both new applicants and existing licensed drivers. The dress code can be found at **Appendix I**.

## **12. DVLA Licence Checking**

- 12.1 The Licensing Authority will check the DVLA database in order to establish a driver's complete driving history.
- 12.2 Where this course of action is deemed necessary, the Licensing Authority will request that the driver completes a consent form in order that the check can be carried out. The cost of the check is borne by the applicant/licensed driver.
- 12.3 Should the necessary consent, as required in Para 12.2 above not be given by the applicant/licensed driver, this will result in the application being refused or the existing drivers licence being immediately suspended or revoked.

## **13 Advice to Drivers**

- 13.1 Within the conditions of the grant of your licence you are responsible for various items, some of which may be checked by various Council Officers on demand. The list of advice to drivers is set out at **Appendix B**.

## 14 Vehicles

### Limitation of Vehicle Numbers

14.1 The Licensing Authority currently imposes a quantity restriction regarding the number of hackney carriages licensed by Torbay Council. This has been the case for many years and is supported by results from an unmet demand survey. This survey is carried out every 3 years.

### Specification and Conditions

14.2 The Licensing Authority has a wide discretion over the types of vehicles it licenses as hackney carriages or private hire vehicles. In general, vehicles will be licensed in accordance with the manufacturer's design.

14.3 The Licensing Authority has a Policy which sets out the minimum standards of vehicle specification, which apply in respect of all licensed vehicle applications. The vehicle specification and conditions are set out at **Appendix D**.

14.4 The Licensing Authority has set an age Policy, with regards to the licensing of vehicles at first application stage. Details are as follows:

<b>Application Type</b>	<b>Maximum Age of Vehicle</b>
Initial (first) Application (all vehicle types)	<b>4 Years AND Less than 60,000 miles</b>
Renewal Application (for vehicles already licensed)	<b>Up to 8 Years*</b> <b>*(Age taken from the date of the first registration in the Vehicle Registration Document)</b>
Wheelchair Accessible Vehicles (WAVs)	<b>Up to 10 Years*</b> <b>*(Age taken from the date of the first registration in the Vehicle Registration Document)</b>

14.5 Once licensed, vehicles which are deemed to be in exceptional condition at the end of the maximum age limit can apply to the Licensing Authority for an annual extension. The Licensing Committee will determine whether the vehicle is suitable for an extension, however all applications must be made 6 months prior to the expiration of the annual licence.

14.6 The Licensing Authority has adopted a Policy for the licensing of limousines. The Policy is provided at **Appendix E**.

14.7 The Licensing Authority would consider applications for 'novelty vehicles', but this would need to be considered separately by Licensing Committee. It should be noted however that Torbay has a restricted policy on numbers of hackney carriages at this time.

14.8 The Licensing Authority is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private

hire vehicle licence by virtue of the Local Government (Miscellaneous Provisions) Act 1976.

### Vehicle Damage/Accident

- 14.9 The proprietor of any hackney carriage or private hire vehicle must report to the Licensing Authority, as soon as reasonably practicable, and in any case within seventy two hours, the occurrence of any accident involving the hackney carriage or private hire vehicle.
- 14.10 The vehicle will be inspected by an Authorised Officer and a decision made as to whether or not the vehicle is in such condition to continue in service.
- 14.11 If any damage to the vehicle is such that the Authorised Officer considers it to be in a safe condition to continue in service, the vehicle shall be permitted to remain in continued service but the identified repairs must be undertaken within a maximum of 28 days of the damage occurring. Failure to do so may result in the vehicle licence being suspended until such time that the permanent repairs have been undertaken.
- 14.12 If any damage is considered by an Authorised Officer to be extensive enough to affect the safety or general appearance of the vehicle it must be immediately withdrawn from service and the plate removed. The vehicle must be repaired before the plate is re-affixed and the vehicle returned to service.
- 14.13 In the case of any dispute in respect of the requirement in Para's 14.9-14.12 above, the Licensing Authority will request that the vehicle be taken to a nominated testing station for examination by a qualified mechanic and the cost of this examination will be borne by the licence holder. The Licensing Authority shall take the findings of the repairs identified by the qualified mechanic, as necessary before the vehicle is permitted to continue in service. The appropriate fee for such examination will be paid by the proprietor. If the proprietor fails to take the vehicle to the nominated testing station, then the vehicle licence will be suspended immediately. This suspension will only be lifted by the Licensing Authority once the nominated testing station carries out an examination of the vehicle and passes it fit to continue in service.

### Accessibility

- 14.14 The Licensing Authority is committed to ensuring that a wide variety of opportunities are available to disabled persons, as regards to access to transport and to ensure disabled people are not discriminated against or treated less favourably.
- 14.15 The Licensing Authority is mindful that different accessibility considerations apply in relation to hackney carriages and private hire vehicles. As regards to hackney carriage vehicles, the Licensing Authority considers it important that a disabled person should be able to hire a 'taxi' on the spot with minimum delay or inconvenience - therefore, having accessible vehicles available helps to make this achievable.
- 14.16 The Licensing Authority aspires to achieve 5% wheelchair accessible vehicles by 2018 with regard to both hackney carriage and private hire vehicles.

14.17 The Licensing Authority in acknowledging the Equality Act 2010 wishes to make drivers of hackney carriages and private hire vehicles aware that certain duties are due to be placed upon those whom operate wheelchair accessible vehicles. The duties will apply to the driver of any wheelchair accessible vehicle which is on the Authority's list of "Designated Vehicles".

The duties are as follows:

- to carry the passenger whilst in a wheelchair
- not to make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to have capacity to carry the wheelchair also
- to take such steps as are necessary to ensure that the passenger is carried in safe and reasonable comfort; and
- to give the passenger such mobility assistance, as is reasonably required.
- the driver must also offer to load the passenger's luggage into and out of the vehicle.

14.18 Before the duties, as set out in Para 14.17 above come into force, drivers who suffer from a disability or a condition which would make it difficult for them to provide physical assistance, can apply to the Licensing Authority for an exemption notice to exempt them from these duties. Applicants/licensed drivers should ensure that the G.P practice where they are registered can undertake a medical assessment and complete an Exemption Application Form. This Form will then need to be produced to the Licensing Authority before a final decision can be determined on whether to issue the driver with an official Notice of Exemption.

14.19 If an application for exemption from duties is successful, the Licensing Authority will issue to the driver a Notice of Exemption. This Notice must be displayed in the vehicle at all times, by fixing it in a prominent position on the dashboard of the vehicle. Failure to display the Notice, as specified in Para 14.18 above, will render the exemption void

Duty to Carry Assistance Dogs

14.20 Licensed drivers are under a duty to carry, free of charge, any guide, hearing and other assistance dogs travelling with a disabled person. Since 31 March 2004, a similar duty has applied to the drivers of licensed private hire vehicles (PHVs). In addition, PHV operators will be under a duty to accept a booking made by, or on behalf of a disabled person and shall not be permitted to make an additional charge for carrying an assistance dog. Any driver (aside from those holding a Notice of Exemption, for the purposes prescribed in Para 14.17 above) who fails to comply with this duty, could be prosecuted and may be liable to a fine not exceeding Level 3.

14.21 If it is brought to the attention of the Licensing Authority, by way of a complaint, that a driver breaches the duty which is outlined in Para 14.20 above, the Licensing Authority may, in addition to any prosecution, seek to suspend or revoke the drivers licence.

Vehicle Testing

- 14.22 The Licensing Authority may request, at any time when there is doubt as to the suitability or condition of a licensed vehicle, that the vehicle licence holder takes the vehicle to an approved testing station for a vehicle inspection. The inspection will be based on the specification set by the Licensing Authority and costs associated with the inspection, will be met by the applicant/licence holder.
- 14.23 If the vehicle fails to pass the vehicle test, then the vehicle will be immediately suspended until necessary works are completed and the vehicle test is passed.
- 14.24 Failure to provide the vehicle for inspection will result in the vehicle licence being immediately suspended.

#### Mechanical Breakdown

- 14.25 If any vehicle becomes unfit to complete a hiring during a journey, the driver shall be entitled to demand the fare for the distance already travelled.
- 14.26 The driver shall secure alternative transport without delay to complete the journey if the hirer so wishes. If the original vehicle is repaired and completes the hiring the driver shall be entitled to the full fare with the exception of any time that the hirer waited for the repair to be executed.
- 14.27 Any such incident must be reported to the Licensing Authority immediately or within one working day.

#### Signage & Advertising

- 14.28 The Licensing Authority recognises that hackney carriage and private hire vehicles must be clearly distinguishable to allow the public to identify them from other vehicles and also from each other. In order to achieve this, the Licensing Authority has adopted conditions setting out the acceptable types of signage for both vehicle types. The conditions are provided at **Appendix F**.
- 14.29 The Licensing Authority shall permit advertising on hackney carriage vehicles. However any such advertisements must be approved by the Licensing Authority in advance of the vehicle undergoing any such modification. Advertising requests must be made in writing to the Licensing Department for approval, enclosing copies of the intended advertisement.
- 14.30 All hackney carriage and private hire vehicles must display within the vehicle, in a prominent position a Notice, to be supplied by the Licensing Authority, advising customers what to do in the event of making a complaint
- 14.31 All exterior and interior signs supplied by the Licensing Authority must be kept in good order and must not be de-faced. Any sign which fails to meet this condition, must be replaced immediately and the cost of replacing these signs shall be borne by the licence holder.

#### Private Hire Door Signs

- 14.32 If a licensed driver is witnessed by an Officer of the Licensing Authority driving a licensed vehicle without the use of Licensing Authority approved door signs

being attached to that vehicle, that driver shall in the first instance receive a verbal warning. If the same driver is then witnessed by an Officer of the Licensing Authority to repeat this conduct within a 6 month period of any verbal warning being given, that driver can expect to receive a formal written warning. Should that driver then be witnessed by an Officer of the Licensing Authority to repeat this conduct within the following 3 months, then a second formal written warning will be issued and on completion of an investigation, this may result in a report being submitted to Licensing Committee with a recommendation to revoke the said drivers licence.

### Tinted Windows

14.33 The Licensing Authority will not issue a licence to a vehicle which has tinted windows that were not in place at the time of manufacture. The manufacture of such windows must be compliant with VOSA regulations.

### CCTV

14.34 The hackney carriage and private hire trade provide a valuable service to the public, especially late at night when other forms of public transport may cease to be available. Security for drivers and passengers is of vital importance to the Licensing Authority. CCTV camera recording equipment can be a valuable deterrent as well as protecting the driver from unjustified complaints. It is not proposed that CCTV measures should be required as part of the licensing regime, instead the decision whether to install such equipment is left to the discretion of the vehicle or business owner. Any scheme must comply with the requirements of the Data Protection Act 1984, in so much as images may not be used by persons in any way, except for the purposes of detecting issues of crime and anti-social behaviour inside vehicles or if there is a request for their images by customers. The requirements under the Data Protection Act 1984 only apply to Sole Traders, not Companies. However using images obtained by the CCTV for any other means, may result in persons be guilty of an offence. Request for images obtained via CCTV may be made by the Licensing Authority, the Police or the Trade Suppliers.

14.35 ~~TaxiCam equipment is the only equipment that currently meets the requirements set out in Para 14.34 above for installation in vehicles at this time. The permission to use any other equipment would need to be obtained from a senior officer in the Councils Licensing Authority.~~

*CCTV equipment when installed in vehicles must meet the requirements set out in paragraph 14.34 (above). Permission to use such equipment does not need to be obtained from the Licensing Authority. However, it is the responsibility of the owner/proprietor of each vehicle to ensure full compliance with all responsibilities and regulations concerning use of recording equipment. Therefore, in case of any doubt, it is strongly recommended that any owner/proprietor should contact the Licensing Authority prior to any purchase and installation.*

### Livery (Colour)

14.36 The Licensing Authority has not implemented a livery (colour) Policy, however this remains under consideration for the future.

14.37 The Licensing Authority will keep the issue under review. If the Licensing Authority believes that it would be of benefit to the public to introduce livery (colour), then a public consultation will be undertaken prior to any change coming into effect.

#### Seating in Multi-Passenger Vehicles

14.38 The Licensing Authority will licence vehicles for seating arrangements of up to eight passengers, where all the Licensing Authority's licensing requirements are satisfied.

14.39 All seating arrangements will be considered in relation to safety requirements prior to any licence being issued. It should NOT be assumed that permission will automatically be granted and so applicants are advised to contact the Licensing Authority in advance of making any purchase, prior to making an application.

#### Smoking

14.40 Smoking has been is prohibited in all hackney carriage and private hire vehicles. No smoking signs shall be displayed at all times within the vehicle.

14.41 Torbay Council also prohibits the use of E or vapour cigarettes by drivers or passengers in licensed vehicles.

14.14 A driver found smoking, using E/Vapour cigarettes or permitting these to take place in a licensed vehicle, will be subject to enforcement action by either the Licensing Authority or the Council.

#### Taxi Rank Provision

14.15 The ranks currently in operation within Torbay are detailed at **Appendix G**. It should be noted that where written requests for additional rank space is made, the Licensing Authority will consider the existing provision and liaise with the Council's Highways department. The responsibility to instigate formal consultation and rank works lies with the Council's Highways Department.

### **15. Grant and Renewal of Vehicle Licences**

15.1 The Licensing Authority will consider all applications for vehicle licences on their own merits.

15.2 The Licensing Authority will, providing that all the Licensing Authority's requirements are met; issue a 12-month licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April.

15.3 All vehicles presented for licensing for the first time shall be subject to a vehicle inspection.

15.4 All vehicles presented for licensing for the first time shall be under 4 years old and have a current mileage of less than 60,000 miles.

- 15.5 Vehicles **aged between 0 and 4 years** will be issued with an annual licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April. An MOT (not more than 90 days old), the registration document and a valid insurance certificate or cover note (faxed copies will not be accepted) must be produced before the grant of the vehicle licence.
- 15.6 Vehicles **aged between 4 and 8 years** will be issued with an annual licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April. An MOT (not more than 90 days old), the registration document and a valid insurance certificate or cover note (faxed copies will not be accepted) must be produced to the Licensing Authority before the Licensing Authority will grant a vehicle licence.
- 15.7 Wheelchair Accessible Vehicles (WAVs) **aged older than 8 years** will be issued with an annual licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April. An MOT (not more than 90 days old), the registration document and a valid insurance certificate or cover note (faxed copies will not be accepted) must be produced to the Licensing Authority before the Licensing Authority will grant a vehicle licence. Additionally a second MOT for the vehicle will be due in October and must be no older than 30 days old. If the second MOT is not submitted by the 31<sup>st</sup> October then the vehicle licence will be suspended immediately until a valid MOT is submitted to the Licensing Authority.
- 15.8 Applicants should also be aware that if a licence has not been issued at the point when an existing licence expires (due to incomplete paperwork provided to the Licensing Authority), the licence holder must cease using that vehicle until a complete application has been received and determined.
- 15.9 It should be noted that once the date of expiry of an existing licence has passed and a valid application for renewal (i.e. a complete application, including the appropriate fee) has not been received, the licence will automatically expire. Where this occurs, the applicant will be required to submit a new application and the vehicle will be deemed to be a new vehicle. Therefore, the vehicle must meet all the requirements of this type of application. In addition, the expired vehicle licence plate must be returned to the Licensing Authority immediately or within seven days of expiry.
- 15.10 Where the Applicant has made an application for the grant or renewal of a vehicle licence, the Applicant must declare and supply information in relation to the insurance and MOT of that vehicle. If at any point during the term of the licence it is found that insurance and/or the MOT is not in place or lapsed, the Licensing Authority will suspend the vehicle licence immediately until a valid insurance document and/or the MOT is submitted to the Licensing Authority. The Licensing Authority may decide to take the matter further upon investigation, which may include revocation of that licence.
- 15.11 If an application is made and the vehicle does not meet the requisite criteria, the Licensing Authority will charge a fee to issue a refund in line with Torbay Councils fees and charges.

## Replacement Vehicles

- 15.12 A vehicle licence is issued to a specific vehicle, therefore, at the point where the licence expires, the licence ceases to exist and any new vehicle would be subject to the requirements of a new vehicle licence application.
- 15.13 To assist vehicle proprietors who wish to be able to change vehicles during the period of an existing licence, the Licensing Authority operates a 'replacement vehicle Policy'. This will enable the existing licence to remain in place; however, the 'replacement' vehicle will have to meet the Licensing Authority's vehicle specification as set out in **Appendix D**.

## **16. Private Hire Operators**

- 16.1 Any person who makes provisions for the invitation to or acceptance of bookings for a private hire vehicle or a private hire service, must apply to the Licensing Authority for and hold, a valid Private Hire Operator Licence.

## Conditions

- 16.2 The Licensing Authority has power to impose conditions on a private hire operators' licence, as it considers reasonably necessary to do so.
- 16.3 The Licensing Authority considers that the conditions set out in **Appendix C** of this Policy meet the necessary criteria when granting a private operator's licence. As such, these conditions will be attached to all private hire operator licences unless at the application stage, evidence is submitted by the applicant which provides sound evidential reasoning for not doing so.

## **17. Grant and Renewal of Operator Licences**

- 17.1 The Licensing Authority will consider all applications for operator licences on its own merits.
- 17.2 The Licensing Authority issues yearly licences for private hire operators which run from the 1<sup>st</sup> May to the 30<sup>th</sup> April
- 17.3 If an application is made and the Applicant does not meet the requisite criteria, the Licensing Authority will charge a fee to issue a refund in line with Torbay Councils fees and charges.

## The applicant for a private hire operators licence shall be required:-

- 17.4 To show that the premises from which it is intended to conduct business is free from any encumbrances or restrictions for such use, and to provide the name and address of the owner of the premises.
- 17.5 To provide all necessary washing, toilet and rest room facilities for persons conducting business from the premises as required by the Health and Safety at Work legislation.
- 17.6 If waiting facilities are available for intended passengers, to provide sufficient and proper seating for those persons.

## **18. Disciplinary and Enforcement Measures**

- 18.1 The Licensing Authority recognises that well-directed enforcement activity not only benefits the public but also responsible members of the hackney carriage and private hire trades.
- 18.2 The Licensing Authority will follow the principles laid out in the Regulator's Code and any recommendations from the Local Better Regulation Office. Copies can be found at [www.lbro.org.uk/](http://www.lbro.org.uk/) .
- 18.3 The Licensing Authority shall take enforcement action where it considers it necessary and proportionate to do so. In doing so, it will have regard to the licensing objectives stated within this Policy. Enforcement will be risk-based, intelligence-led and targeted and managed in line with the Licensing Authority's Enforcement Policy.
- 18.4 A record of any enforcement and/or disciplinary action taken by the Licensing Authority or Local Authority, whether formal or informal, will be recorded on the licence holder's file. Such evidence of this, may be brought to the attention of the Licensing Committee, Sub-Committee or the Court, if further action is deemed necessary.

## **19. Fares**

- 19.1 On receipt of a request for consideration of an increase in fares from a member of the Torbay Hackney Carriage Association, the Licensing Authority will follow the procedure set out in **Appendix H** of this Policy.
- 19.2 A fares tariff is enforceable as a byelaw and it is an offence for any person to charge more than the metered fare.
- 19.3 The current tariff card must be prominently displayed to customers inside the hackney carriage vehicle, at all times.
- 19.4 The setting of fares for hackney carriages is a function of the Council's Licensing Committee.
- 19.5 The Licensing Authority may not set fares for private hire, as these are set and advertised at the discretion of individual private hire vehicle operator, as in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

## **20. Meters**

- 20.1 The Licensing Authority requires that meters to calculate fares must be calendar clocked, accurate and displaying the correct time and capable of displaying the various tariffs, as approved by the Licensing Authority. This shall include any extra charges which are payable under the approved Table of Fares.
- 20.2 The meter must be calibrated and set to the Licensing Authority agreed charging distances and tariffs currently in force.

- 20.3 Meters will be checked by the Licensing Authority from time to time, to ensure that they are accurate, to that of a metered mile distance or by waiting time.
- 20.4 Meters must be positioned in order that the fare must be clearly displayed to the passenger throughout the journey.
- 20.5 Meters in operation must not facilitate fraudulent use. Any signs of the tampering included in the breaking of seals will result in immediate action being taken by the Licensing Authority to suspend the licence pertaining to the vehicle in question. Where a licence is suspended, the vehicle proprietor shall return the licence plate to the Licensing Authority immediately. The Licensing Authority will then consider what further action, if any, to take against the driver or vehicle operator in question. Such action may result in the revocation of either or all the driver, operators or vehicle proprietors licence.

## **21. RIGHTS OF APPEAL**

The following rights of appeal are to be found in Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)A1976):

- 21.1 Appeal against conditions imposed on a hackney carriage proprietor's licence (LG(MP)A 1976, s 47).
- 21.2 Appeal against refusal to grant a private hire vehicle licence, or conditions imposed on such a licence (LG(MP)A 1976, s 48)
- 21.3 Appeal against refusal to grant a private hire driver's licence, or conditions imposed on such a licence (LG(MP)A 1976, s 52)
- 21.4 Appeal against refusal to grant a private hire operator's licence, or conditions imposed on such a licence (LG(MP)A 1976, s 55)
- 21.5 Appeal against refusal to grant a hackney carriage driver's licence (LG(MP)A 1976, s 59)
- 21.6 Appeal against suspension, revocation or refusal to renew a hackney carriage or private hire vehicle licence, or conditions imposed on such a licence (LG(MP)A 1976, s60)
- 21.7 Appeal against suspension, revocation or refusal to renew a hackney carriage or private hire driver's licence (LG(MP)A 1976, s61)
- 21.8 Appeal against suspension, revocation or refusal to renew a private hire operator's licence (LG(MP)A 1976, s62)

**Local Government (Miscellaneous Provisions) Act 1976 s 77 states:**

**‘Appeals:**

77-(1) sections 300 TO 302 of the Act of 1936, which relates 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 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’

In general, the effect of LG(MP)A 1976 s 77(2) is to stay any action pending the determination of an appeal. However there is an exception in relation to hackney carriage and private hire driver’s licence, when the Local Authority has decided that the licence should be suspended or revoked with immediate effect in the interest of public safety

The appeal period is 21 days from the date on which ‘notice of the Local Authority’s requirement, refusal or other decision was served on the person desiring to appeal

**An appeal must be made to:**

South and West Devon Magistrates’ Court, c/o Torquay & Newton Abbot County Court, Nicolson Road, Torquay. TQ2 7AZ

## APPENDIX A

**Policy for determining the relevancy of criminal convictions, cautions, reprimands and warnings in relation to Hackney Carriage or Private Hire Driver Licences**



### **Taxi and PHV Licensing Criminal Convictions' Policy**

#### **1 General Policy**

1.1 Each case will be decided on its own merits.

1.2 The Licensing Authority has a duty to ensure, so far as possible, that applicants are 'fit and proper' persons to hold licenses and in the absence of a judicially approved definition of "fit and proper", the Licensing Authority use the test of:

*Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone?*

The wording of this test originates from Button, J. T. H. (1999), Taxis – Licensing Law and Practice, Butterworths, London.

1.3 The overriding consideration is the safety of the public. The Licensing Authority has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit. An aspect of this is the extent to which previous convictions, including but not limited to convictions of dishonesty, sexual offences, traffic offences, violence and drugs, indicate that a person is not a 'fit and proper' person and would not take advantage of passengers or abuse or assault them.

- 1.4 Simply remaining free from convictions will not generally be regarded as sufficient evidence that a person is a 'fit and proper' person to hold a licence. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public. The following examples afford a general guide on the actions to be taken where convictions are admitted or discovered.

## **2 Dishonesty**

- 2.1 It is essential for the public to have trust in hackney carriage and private hire drivers. The practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers and operators. However, there is scope for a dishonest driver to defraud a passenger by demanding more than the legal or agreed fare or by taking a longer route to a destination. Tourists and overseas visitors are particularly at risk from an unscrupulous driver. For this reason, the Licensing Authority will take a serious view of any offences involving dishonesty. The Licensing Authority will not normally consider an application until a period of at least three years free from convictions has elapsed. More than one conviction for this type of offence within the last five years will raise serious doubts about the applicant's fitness to hold a licence. In such cases, the Licensing Authority may reject the application.
- 2.2 In the case of a licensed driver being convicted of an offence involving dishonesty 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 three years free from the date of conviction of this type has elapsed.
- 2.3 Offences of Dishonesty include:
- Theft
  - Burglary
  - Fraud including benefit fraud
  - Handling or receiving stolen goods
  - Forgery
  - Conspiracy to defraud
  - Obtaining money or property by deception
  - Other deception
  - Any similar offences of dishonesty where the conviction is less than three years prior to the date of application

## **3 Violence**

- 3.1 The Licensing Authority will take a serious view of any applicant convicted of an offence involving violence. A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.
- 3.2 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter

- Manslaughter or culpable homicide while driving
- Arson with intent to endanger life
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit offences) which replace the above

3.3 In the case of a licensed driver being convicted of any of the above offences, unless there are exceptional circumstances, the Licensing Authority will immediately revoke the licence.

3.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) that replace the offences below and the conviction is less than 10 years old prior to the date of application:

- Arson, with intent to endanger life
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault on Police
- Racially aggravated offences
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit offences), which replace the above

3.5 In the case of a licensed driver being convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 10 years free from the date of conviction has elapsed.

3.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s), which replace the offences below and the conviction, is less than 5 years old prior to the date of application:

- Assault occasioning actual bodily harm
- Common assault
- Affray
- Criminal damage
- Harassment
- Or any similar offences (including attempted or conspiracy to commit offences), which replace the above

3.7 In the case of a licensed driver being convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 5 years free from the date of conviction has elapsed.

3.8 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s), which replace the offences below and the conviction, is less than 3 years prior to the date of application:

- S.5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Possession of a weapon
- Obstruction
- Minor criminal damage
- Or any similar offences (including attempted or conspiracy to commit offences), which replace the above

3.9 In the case of a licensed driver convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 3 years free from convictions of this type has elapsed.

## 4 **Drugs**

4.1 The Licensing Authority will take a serious view of convictions for drug related offences. An application will normally be refused when an applicant has a conviction related to the supply of drugs and the conviction is less than five to ten years prior to the date of application. After five years have elapsed, consideration will be given if an applicant can provide evidence that they can be considered a 'fit and proper' person.

4.2 An application will generally be refused where the applicant has more than one conviction relating to the possession of drugs and the conviction is less than five years prior to the date of application.

4.3 An application from an applicant who has an isolated conviction for possession of drugs within the last three to five years will require serious consideration before a decision is made regarding their suitability.

4.4 The Licensing Authority will take a serious view of a licensed driver convicted of a drug related offence. An isolated incident will result in a strict warning about future conduct. More than one conviction for this type of offence in the last five years will raise serious doubts about the person's fitness to hold a licence. In such cases, the Licensing Authority may refuse to renew, suspend or revoke the licence or require a medical examination to be undertaken. If a licence is revoked, no further application will be considered until a period of at least five years free from convictions has elapsed.

## 5 **Sexual and indecency offences**

5.1 Hackney carriage and private hire drivers frequently carry unaccompanied and/or vulnerable passengers. The Licensing Authority will therefore take a serious view of any convictions for a sexual offence. A licence will not normally be granted if an applicant has more than one conviction for a sexual offence.

5.2 Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Or any similar offences (including attempted or conspiracy to commit offences) which replace the above

5.3 In the case of a licensed driver convicted of any of the above offences, unless there are exceptional circumstances, the Licensing Authority will immediately revoke the licence.

5.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s), which replace the offences below and the conviction, is less than 10 years prior to the date of application:

- Sexual assault
- Indecent assault
- Possession of indecent photographs, child pornography etc
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Or any similar offences (including attempted or conspiracy to commit offences), which replace the above

5.5 In the case of a licensed driver convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 10 years free from convictions of this type has elapsed.

5.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s), which replace the offences below and the conviction, is less than 5 years prior to the date of application:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit offences) which replace the above

5.7 In the case of a licensed driver convicted of any of the above offences, the Licensing Authority may suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least 5 years free from convictions of this type has elapsed.

5.8 Applications will be refused where the applicant remains on the Sex Offenders Register.

## 6 **Alcohol Related Offences**

6.1 With motor vehicle:

The Licensing Authority will take a serious view of an applicant convicted for driving or attempting to drive a vehicle with levels of alcohol in blood, breath or urine in excess of the permitted limit. A single conviction for any alcohol-related driving offence will normally preclude an application from being granted for a period of five years from the restoration of the DVLA driving licence.

- 6.2 More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will normally be refused.
- 6.3 If there is any suggestion that the applicant suffers clinical alcohol dependence, the Licensing Authority may require a special medical examination to be undertaken. If the applicant is found to be suffering from clinical alcohol dependence, an application will not be considered until a period of at least five years has elapsed after completion of treatment of the condition. The cost of any medical examination must be paid for by the applicant/licensed driver.
- 6.4 The Licensing Authority will take a serious view of a licensed driver convicted of driving or attempting to drive a vehicle with levels of alcohol in excess of the permitted limit as this will raise serious doubts about the person's fitness to hold a licence. In such cases, 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 five years free from convictions of this type has elapsed.

6.5 Without motor vehicle:

An isolated incident will not necessarily prevent an applicant being granted a licence. However, a number of convictions for alcohol-related offences may indicate a medical problem. In such cases, the Licensing Authority may require a medical examination to be undertaken. The cost of any medical examination must be paid for by the applicant/licensed driver.

## 7 **Minor traffic offences**

- 7.1 Convictions for minor traffic offences will not prevent a person from being considered for a licence. If a new applicant has six live penalty points on their driving licence for such offences then the application may be granted subject to a strong written warning. If an applicant has more than six penalty points on their licence then the application will normally be refused and no further application will be considered until a period of at least 12 months free from convictions or fixed penalties of this type has elapsed.
- 7.2 In the case of a licensed driver accumulating nine or more penalty points 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 12 months free from convictions of this type has elapsed. A list of minor traffic offences can be seen in table 1.

## 8 **Major traffic offences**

- 8.1 If an applicant has live endorsements or has been disqualified from driving in respect of major traffic offences then the application will normally be refused until at least five years after the most recent such convictions.
- 8.2 In the case of a licensed driver being convicted of a serious road traffic accident, the Licensing Authority may suspend or revoke the licence or an application to renew the licence being refused. If a licence is revoked, no further application

will be considered until a period of at least 5 years free from the date of conviction has elapsed.

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

## 9 Offences by licensed drivers, proprietors or operators

9.1 Any conviction which results from an offence committed by any person whilst carrying out their duties as a hackney carriage or private hire driver, proprietor or operator regarded as extremely serious may, lead to a licence being suspended or revoked or an application to renew the licence being refused.

9.2 More than one conviction, as outlined in Para 9.1 above, will lead to the drivers licence being revoked. This includes any offences against the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 or any breach of the conditions or byelaws made under the relevant legislation.

9.3 Convictions of any description committed by both hackney carriage proprietors, private hire drivers and operators during the duration of their licence must be declared to the Licensing Authority in writing immediately and in any case no later than 7 days.

## 10 Cautions and Endorsable Fixed Penalties

10.1 For the purpose of these guidelines, endorsable fixed penalties shall be treated as though they were convictions.

## 10 Pending Investigation

10.1 The Licensing Authority may, at their discretion suspend a drivers licence where is deems it appropriate to do so pending an investigation by either the Local Authority or the Police. This decision will only be taken where it is deemed necessary for the interest of Public Safety.

**Table 1: Minor traffic offences**

Code	Offence
CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use or unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence
MS10	Leaving a vehicle in a dangerous position

MS20	Unlawful pillion riding
MS30	Play street offences
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver, etc.
MW10	Contravention of special road regulations (excluding speed limit)
PC10	Undefined contravention of pedestrian crossing regulations
PC20	Contravention of pedestrian crossing regulations with moving vehicle
PC30	Contravention of pedestrian crossing regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a 'stop' sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

**NOTE:** Includes: Aiding, abetting, counselling or procuring any of the offences as coded above. Causing or permitting any of the offences as coded above. Inciting any of the offences as coded above.

**Table 2: Major traffic offences**

<b>Code</b>	<b>Offence</b>
AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of the court
BA30	Attempting to drive while disqualified by order of the court
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol above limit
CD70	Causing death by careless driving then failing to supply a specimen for analysis
CD71	Causing death by careless driving then failing to supply a specimen for drug analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR31	Driving or attempting to drive then failing to supply a specimen for drug analysis
DR40	In charge of a vehicle while alcohol level above limit

DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR61	Failure to supply drug specimen for analysis in circumstances driving or to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third-party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
UT50	Aggravated taking of a vehicle

**NOTE:** Includes: Aiding, abetting, counselling or procuring any of the offences as coded above. Causing or permitting any of the offences as coded above. Inciting any of the offences as coded above.

## APPENDIX B

### Advice to Drivers

1. Only a licensed driver may drive a licensed vehicle at any time
2. Driver to ensure that the vehicle is safe and clean prior to commencing work
3. Do not use mobile telephone, radio or data sources while the vehicle is in motion
4. Do not use anyone to tout for you
5. Check operator is licensed
6. Keep vehicle clean inside and out
7. Control language on radio
8. Check road fund licence valid
9. Report any convictions
10. Always check destination
11. Use your radio call sign properly
12. Attend at licensing Office if called
13. Ensure vehicle signs correct
14. Undertake Medical as required
15. Only drive licensed vehicles
16. Do not tout for hire
17. Never Stop for flag down (Private Hire Only)
18. Stay Off of Taxi Ranks (Private Hire Only)
19. Ensure vehicle complies with law
20. Ensure vehicle is insured
21. Check road tax is clearly displayed
22. Report any change of Address
23. Report any found property

24. Assist with any Police link Calls
25. Keep Records of Bookings
26. Keep copy of valid insurance
27. Produce any licence if required
28. Wear I.D. badge at all times in a position where it can be clearly seen
29. Ensure children wear seat belts
30. Comply with Police Access requirements
31. Never exceed number of passengers on Plate regardless of age
32. Check car after every journey for lost property
33. All Private Hire bookings must be pre-booked
34. Report any change of Medical Fitness and attend for a medical if required
35. Give reasonable assistance with luggage
36. Produce any documents required by operator for checking
37. Driver, Vehicle and Operator MUST all be licensed in Torbay
38. Not use private land or Council car parks as a short cut or thoroughfare

Remember Passengers hire the vehicle with the services of the driver and he/she should:-

39. Not use the horn to make passengers aware of his arrival
40. Not cause distress, by loud radio use, to passengers or others

This list is for advice only and is not exhaustive.

## APPENDIX C

### Private Hire Operator Licence Conditions

The following conditions shall apply to Private Hire Operator Licences issued by Torbay Council by virtue of the Local Government (Miscellaneous Provisions) Act 1976, s55(3).

In these conditions reference to the words “you or your” shall mean the person named in this licence and where that person is a Limited Company, that Company.

#### 1. Standards of Service

- 1.1 At all reasonable times provide a punctual, well-organised and reliable service to members of the public and:
- (a) Ensure that when a private hire vehicle has been hired to be at a place at a pre-arranged time, that the vehicle, unless delayed or prevented by a reasonable cause, attends on time at that place;
  - (b) Ensure that any premises that you provide for accepting bookings when it is open to the public is safe, well maintained, clean, heated, ventilated and well lit, and that any seating that you provide is safe, comfortable and free from defect;
  - (c) Ensure that any telephone facilities and radio equipment provided are maintained in sound condition (e.g. is fit for purpose) and that any defects are repaired promptly; and
  - (d) Ensure that any vehicle provided by you for any booking is safe, clean, well maintained and free from defect.

#### 2. Convictions, Cautions or Fixed Penalty Notices

- 2.1 If you are convicted of any offence (this includes motoring and criminal offences), given a formal caution for any offence or have any fixed penalty notice imposed on you, then you must write to the Licensing Authority giving full details of the offence(s), caution(s) or fixed penalty notice(s) within five working days.

#### 3. Operator Office Location

- 3.1 The office must be located within Torbay to enable any authorised officer access to the premises or any records as required by statutes or conditions.

#### 4. Records

- 4.1 Keep at the operator base specified in this Licence, a bound book, the pages of which are numbered consecutively or a computer record in a form which has been approved by the Licensing Authority in writing; and enter or ensure that there is entered in the book or computer record, details of every booking of a private hire vehicle invited or accepted by you at the time the booking is made. The records shall contain the following details:

- (a) The time and date the booking was made;
- (b) The name and address of the hirer;
- (c) How the booking was made (i.e. by telephone, personal call, etc);
- (d) The time of the pick-up;
- (e) The address of the pick-up;
- (f) The address of the destination;
- (g) The time at which a driver was allocated to the booking;
- (h) The licence number of the vehicle allocated to the booking;
- (i) The name and licence number of the driver allocated to the booking;
- (j) Remarks (including details of any sub-contract); and
- (k) The time and date the entry was made and the name of the person making it.

4.2 Keep the records required under (1) above at the operator base specified in this Licence for a period of not less than 10 working days from the date on which they are made.

4.3 Keep at the operator base specified in this Licence, details of all the private hire vehicles currently operated by you under this Licence. Those records shall contain:

- (a) The licence number of the vehicle;
- (b) The issue and expiry date of the licence;
- (c) The make and registration number of the vehicle;
- (d) The name and address of the proprietor of the vehicle; and
- (e) The call sign allocated to the vehicle.

4.4 Keep or ensure that details of all licences held by private hire vehicle drivers currently employed by you or by the proprietor of any private hire vehicle which obtains bookings from you are kept at the operator base. Those records shall contain:

- (a) The name and address of the driver;
- (b) The issue and expiry date of his/her licence; and
- (c) The driver's licence number.

4.5 Keep for not less than 6 months following the date of the last entry, all records required to be kept by these conditions and produce them when required to do so by an Authorised Officer of the Licensing Authority or a Police Constable as soon as is reasonable practicable and in any case within 3 working days.

## **5. Computer Records**

5.1 Where you use a computer to maintain the records required by these conditions you shall ensure that it is lawful for an Authorised Officer of the Licensing Authority or a Police Constable to have access to those records in accordance with the Data Protection Acts or any subsequent legislation relating to the storage and access to computer records.

5.2 Where any record required under these conditions is made on a computer, the computer program shall be designed to show the time an entry is made and to prevent alterations being made to any data that has been entered and stored on the program.

- 5.3 Where any records are kept on a computer, a facility to print a copy of any record held on any such computer and shall produce them when requested to do so by an Authorised Officer of the Licensing Authority or a Police Constable.

## **6. Change of Circumstance**

- 6.1 If there is any change in any of the circumstances on which the licence was granted, you must provide written details of any changes within 5 working days of the change taking place.

## **7. Change of Address**

- 7.1 If you move your home or business address, you must provide written details to the Licensing Authority within 5 working days of the change taking place.

## **8. Radio**

- 8.1 No device, which can scan radio transmissions, shall be installed, carried or used in or on any premises named within this Licence (this shall not apply to a radio used for the purpose of passing messages to a private hire, which is supplied bookings, by the holder of this licence).

## **9. Deposit of Driver and Vehicle Licenses**

- 9.1 Any operator who employs or permits anyone to drive any licensed vehicle owned by them will ensure that the drivers licence is deposited with him during the period that the driver is employed or permitted to drive, the licence must be returned to the driver at the end of that period. Any vehicle employed or used by an operator must be licensed and the proprietor of the vehicle shall deposit his vehicle licence with the operator during the period that his vehicle is so employed. The operator must return the licence to the vehicle proprietor at the end of the period.

### **IMPORTANT NOTE:**

***If you fail without reasonable excuse to comply with these conditions, the Licensing Authority may consider that this amounts to reasonable cause to suspend, revoke or refuse to renew this Licence, subject to each case being considered on its merits.***

## APPENDIX D

### Vehicle Specification Standards and Schedule of Conditions

#### Specification standards applicable to both vehicle types

Licensed vehicles must be of manufacturers' specification and shall comply in all respects with the Motor Vehicle (Type approval Regulations 1980, Motor Vehicle (Type Approval) Regulations 1984 and the Road Vehicles Construction and Use Regulations 1986. In addition, all vehicles must comply in all respects with the British and European vehicle regulations and be a type to the requirements to the M1 category of European Whole Type Approval 70/156/EEC as amended.

Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle. If the vehicle has been registered with the DVLA and issued with the appropriate registration index number, no change, structural alteration or rearrangement of detail shall be carried out unless the vehicle has received subsequent M1 Whole Type Approval.

If the vehicle has a UK Single Vehicle Approval Certificate, the Licensing Authority will expect that the vehicle will have been modified in accordance with a program approved by the original vehicle manufacturer and have appropriate documentary proof.

There is no policy or requirement on colour differential between Hackney Carriage and Private Hire Vehicles, but no coloured identifying strips, stripes or other markings are permitted to be placed on vehicles beyond those within the maker's specifications or placed on the vehicle at the time of manufacture without the approval of the Licensing Authority. Where vehicles do have identifying strips, stripes or other markings (present at the time of manufacture), applicants are advised to contact the Licensing Authority to discuss the vehicle's suitability prior to making an application to license the vehicle in question.

Stretched limousines and similar vehicles (including applicable speciality vehicles) shall comply with existing conditions of licence applicable to all licensed private hire vehicles in so far as they are not superseded by the additional conditions (as set out in the limousine Policy).

## **CONDITIONS RELATING TO HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES MADE UNDER LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

Every hackney carriage and private hire vehicle must comply in all respects with these specifications and conditions.

Whilst these specifications may have been complied with, a licence may nevertheless be withheld if the Licensing Authority is of the opinion that any vehicle is unsuitable for public use.

### **INTERPRETATION**

- (a) The “*Licensing Authority*” means Torbay Council.
- (b) The “*Authorised Officer*” means the Licensing Officer of the Council.
- (c) The “*vehicle*” means the vehicle subject of the hackney carriage/private hire vehicle licence to which the conditions are attached.
- (d) The “*proprietor*” means the person for the time being shown on the hackney carriage/private hire vehicle licence as the proprietor of the vehicle.
- (e) The “*driver*” means the driver for the time being of the vehicle.
- (f) Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.
- (g) Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

### **CONDITIONS**

#### **Vehicle Body & Colour**

- No coloured identifying strips, stripes or other markings are permitted to be placed on the vehicle beyond those within the maker’s specifications or placed on the vehicle at the time of manufacture without the approval of the Licensing Authority.
- The paintwork must be professionally finished and displayed in accordance with the manufacturers’ specifications. Bare metal, primer paint, visible rust and perforations will not be permitted.
- The colour from panel to panel must be of a good match and the finish capable of giving a good sheen.
- All bodywork to be free from dents and damage.

- Panels must be attached and aligned to the chassis/body shell correctly with all joints and welds as per the manufacturer's specifications. The panels must be free from distortion and dents.
- Doors, door locks, boot/tailgate and locks, bonnet, hinges and catches, windows, sun roof and hoods must be operating correctly.
- All trim, mirrors, aerials, bumpers and wheel trims to be complete, correctly aligned and undamaged.
- Windows must be kept free of dirt, grime and marks.

### **Interior Condition**

- The upholstery, carpets, seats, trims and other interior fitments should be free from damage (including stains and burns) and significant wear. Good quality seat covers and carpet mats may be used, providing that each is a matching set, of colour co-ordinating with the vehicle and kept in good condition.
- The floor of the vehicle must be covered with a suitable carpet, mat or other covering which can be readily cleaned.
- All plastic fascia, door linings, roof linings and trim to be kept free from marks, stains and damage.
- All interior lights and fascia illumination to be maintained in good condition.
- All windows to be kept free of dirt, grime and marks.
- All door locks, levers and window winders to be operating efficiently.

### **Engine Size**

- There shall be a minimum engine capacity of 1400 cc, to include vehicles badged by the manufacturers as 1.4 models, for vehicles designed to carry four or more persons.
- The Licensing Authority will consider applications for smaller engine sizes, but only for a reduced number of passengers and it will additionally take into account a proportionate reduction in luggage space, again based upon the number of passengers requested. (private hire vehicles only)
- The minimum engine size in any circumstances will be 1000cc. (private hire vehicles only)

### **Communication between Driver and Passenger**

- Sufficient means must be provided by which any person in the vehicle may communicate with the driver.

## **Radio Equipment**

- Two-way radio equipment provided in the vehicle must be maintained in a sound condition and positioned so as not to obstruct the driver's ability to operate the vehicle's controls.
- Radio equipment must not be fitted in the boot compartment if LPG tanks or equipment is stored therein.

## **Mobile Telephones**

- Use of a mobile telephone must be by way of a hands-free kit or a Bluetooth headset.

## **Driver's Compartment**

- The driver's seat must be designed to accommodate the driver only and provide adequate room to enable easy reach of the operating controls and to enable hand signals to be made on the offside of the vehicle.
- The vehicle must be fitted with at least two mirrors fitted externally to the vehicle, one to the offside and one to the nearside, with another fitted internally. All mirrors are to be fitted and adjusted to afford the driver a clear view to the rear of the vehicle.
- Direction indicators of an approved type must be fitted.
- The vehicle must be fitted with adequate devices for demisting, defrosting and washing the windscreen and with a sun visor capable of being adjusted by the driver.

## **Steering**

- The steering wheel must be on the offside of the vehicle.
- The vehicle must be right-hand drive.
- Wheels should be correctly aligned, joints and bearings free from abnormal wear. All mounting points should be in a sound condition with no undue wear in any associated bushes.

## **Doors**

- Vehicles generally must have at least 4 doors, excluding any tailgate, however consideration will be given to two door vehicles excluding tailgate for applications for vehicles for one or two passengers.
- Passengers' doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism, provided that this condition shall not prevent doors being fitted with a child safety lock.

- Windows must be provided at the sides and rear and passenger door windows must be capable of being easily opened and closed by passengers.
- A separate means of ingress and egress for the driver must be provided by means of a door on the offside of the vehicle.

### **Seating**

- Vehicles shall have seating capacities calculated on the basis of a passenger unit seat width of 16" (406mm) measured laterally across any continuous seat.
- Vehicles having split rear seats shall be measured as a continuous seat provided they are as fitted by the manufacturer and have a gap of not more than 1<sup>3</sup>/<sub>4</sub>" maximum.
- All seats (including the driver seat) must be properly cushioned or covered.

### **Carrying of Animals**

- No animals, other than those being carried under s37 of the Disability Discrimination Act 1995), or those owned by bona-fide fare-paying passengers with the agreement of the driver, shall be carried in or on the vehicle whilst the vehicle is so engaged under the terms of the licence.

### **Heating**

- An adequate heating system must be provided and maintained for the driver and passengers and, where the driver's compartment and passenger compartment is separate, provision must be made to enable independent control by driver and passengers.

### **Luggage**

- Luggage space must be a minimum of 0.43 cubic meters (430 litres) without folding down any seat, and be separated from the passenger compartment without obstructing any emergency exits.
- Applications for vehicles with a reduced number of passengers i.e. below 4, consideration will be given for a proportionate reduction in luggage space.
- Luggage carried must be suitably secured in place.
- Luggage carried in estate cars or multi-passenger vehicles must not be stacked above the height of the rear seats unless the vehicle is designed with, or fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment. Alternatively, a guard rail must be fitted.

### **Tyres**

- The depth of tyre tread must not be less than a minimum of 1.66mm.

- All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter.
- Tyre fitments should comply, in all respects, with the requirements of any Act or Regulation pertaining to Motor Vehicle Regulations on Tyre Safety in force at the time of licensing and during the currency of the licence.
- Road wheels should be free from any distortion and undue fatigue. All wheel nuts/studs must be of the correct type and correctly tightened.
- All wheel trims must be present and in good condition
- Any spare wheel fitted or otherwise in the vehicle is subject to the tyre specifications set out above.
- The use of a space-saver tyre, run flat tyres (when punctured) or puncture repair kit for all vehicles that are manufactured and delivered with such tyres or kits, shall only be permitted in the case of an emergency.
- In the event of a space-saver tyre, run flat tyres (when punctured) or puncture repair kit being used, it shall only be to complete a fare and must comply precisely with the manufacturers' recommendations. Any such tyre must be replaced in accordance with manufacture requirements before taking another fare, to ensure passenger safety.
- In cases where a wheelchair accessible vehicle conversion or a LPG conversion where the tank occupies the usual site of the spare wheel, the vehicle will be exempt from the requirement to carry a spare wheel matching those fitted to the vehicle. This would be subject to the vehicle meeting the luggage criteria and being approved by the specialist converters. In these instances an alternative space saver tyre or puncture repair kit must be carried on the vehicle for emergencies.
- All other licensed vehicles must carry a spare wheel matching those fitted to the vehicle and an appropriate means of changing the wheel.

### **Vehicle Suspension**

- Suspension components, including shock absorbers, springs and torsional bars and linkages, and their associated mounting points should be in sound condition and operating efficiently so as to ensure there is no excessive roll or pitch. There should be no signs of undue wear/fatigue and they should be reasonably free from rust/corrosion.

### **Fuel Tank**

- The filling point for the fuel tank must be accessible only from the outside if the vehicle and filler caps must be so designed and constructed that they can not be dislodged by accidental operation.

## **Fittings**

- No fittings other than those approved by the Licensing Authority shall be attached to or carried upon the inside or outside of the vehicle.

## **Fire Extinguisher/First Aid kit/Drivers Handbook**

- A fire extinguisher, First Aid Kit and the Drivers Handbook must be carried within the licensed vehicle at all times.
- The fire extinguisher must be either:
  - ABC General Purpose Powder
  - AFFF Foamand conform to BSEN 3, showing the appropriate kite mark.
- First aid kit must be comply with the British Standard for vehicle first aid kits BSI kits must be BS8599-1 standard

## **Licence Plate**

- The authorised licence plate issued by the Licensing Authority must be affixed to the vehicle as follows:
  - The licence plate must be permanently fixed to the rear of the vehicle in a conspicuous upright position.
  - The licence plate must not be fixed to/or displayed in the rear window.
  - The small identification card must be securely fixed to the inside of the vehicle in a conspicuous position.
- No vehicle may be used or permitted to be used with any such licence plate concealed from view or so defaced that any word, letter, figure or material particular is illegible or missing.
- The Licensing Authority must be informed immediately should the licence plate showing the number of the licensed vehicle be broken, lost or defaced. On no account must the licensed vehicle carry any passengers without this licence plate.

## **Dual Plating**

- No vehicle will be granted a licence if it is licensed in another district due to the problems of meeting the variance in conditions applied in different districts and the enforcement of those conditions in cases of non-compliance (i.e. signs, meters, suspensions or revocation).

## **Roof signs [applicable to Hackney Carriage Vehicles only]**

- The vehicle must be fitted with a roof sign of a type approved by the Licensing Authority, with the word "Taxi" predominant on the front of the sign and the word "Taxi" or the proprietors trading name, or telephone number, to the rear. The roof sign shall be properly manufactured and comply with relevant legislation.

- The taxi roof sign must be mounted above the vehicle roof and be adequately secured.
- The roof sign must be capable of being illuminated during the hours of darkness.
- The roof sign must at all times comply with any requirements of vehicle lighting regulations when illuminated.
- Fx4 type vehicles are permitted built-in roof signs only.
- The roof sign may be removed while the vehicle is being used in connection with a funeral or a wedding.

### **Advertising (door signs etc)**

- Please see advertising standards (Appendix F)

### **Operators Licence [applicable to Private Hire Vehicles only]**

- The vehicle used must be covered by an Operator's licence issued by the Licensing Authority.

### **Alteration of Vehicle**

- No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Licensing Authority at any time while the vehicle licence is in force.
- Equipment must not be removed from the vehicle which is wheelchair accessible which would render the vehicle incapable of carrying wheelchair-bound passengers.

### **Towing of Trailers**

- No licensed vehicle may tow any trailer whilst being used as a licensed vehicle.

### **Maintenance of Vehicle**

- The vehicle, including the engine area, and all fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition, and all relevant statutory requirements (including, in particular, those contained in the Road Vehicles (Construction and Use) Regulations in force will be complied with.

### **Inspection**

- The vehicle may be called in for inspection at anytime by the Authorised Officer to ensure compliance, failure to attend and show any documentation as requested may lead to suspension or revocation of licence under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 .

## **Vehicle Checks**

- Any vehicle that is suspected of any infringement of legislation, byelaws or conditions may be stopped by an Authorised Officer at any time to ensure its fitness to be used as a licensed vehicle.

## **Ranks [applicable to Hackney Carriage Vehicles only]**

- The number of Hackney Carriage vehicles stationed at any rank must not exceed the number for which the rank is appointed at any time. If a rank is full at the time of the vehicles' arrival at a rank then the driver must proceed to the next available rank.

## **Private Hire Ranks**

- Any Private Hire vehicle, singularly or with others, which give the appearance that it is available for immediate hiring, commits an offence. No more than two vehicles may congregate in any one location giving the appearance that they are a rank and may be plying for hire. As part of the Operators licence issued for the vehicle, when un-engaged must be parked legally and not within 500 meters from an appointed Hackney Carriage rank.

## **Complaints**

- Any vehicle against which complaint is laid must be presented to the authorised officer within one working day of being so requested for inspection, testing and for the driver to answer such complaint.

## **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.

## APPENDIX E

### Limousine Licensing Policy

The Licensing Authority accepts that vehicles of this type, where appropriate, have a legitimate role to play in the private hire trade, meeting a public demand.

Any application made will be judged on its own merits. However, stretched limousines which have more than 8 passenger seats will not be licensed as a Private Hire Vehicle as do not fall within the remit of the licensing regime.

Where a vehicle is licensed as a Private Hire Vehicle, the operator and any person who drives the vehicle for hire must also hold the appropriate licence issued by the Licensing Authority.

Vehicles constructed or adapted to seat fewer than nine passengers, including stretched limousines, are exempt from Private Hire Vehicle licensing requirements while being used in connection with a funeral or a wedding, or where used wholly or mainly for the purpose of funerals or weddings.

#### DEFINITION OF A LIMOUSINE

For the purposes of this policy and licence conditions, a stretch limousine is defined as follows:

A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures

- that is capable of carrying up to but not exceeding 8 passengers;
- that prior to the introduction of this policy could not currently be licensed by the Council as a Private Hire Vehicle;
- that is not a decommissioned military or emergency service vehicle

	ISSUE	LICENCE CONDITION
1	Left Hand Drive Vehicles	Permit Left Hand Drive limousines to be considered for PHV licensing.
2	Sideways Seating	Permit limousines with sideways facing seating to be considered for PHV licensing.
3	Signage	The signage on limousines will need to meet the Authority's main advertising requirements.
4	Tinted Glass	Permit limousines with heavily tinted glass in the rear offside/nearside windows to be considered for licensing. However, heavily tinted glass in the driver cockpit would remain prohibited in line with legal requirements.
5	Fare Table/ Taximeter	Limousines are not required to display a fare table or contain a taximeter.
6	Roadworthiness	The stretched limousine must hold a valid Single Vehicle Approval (SVA) Certificate.

	<b>ISSUE</b>	<b>LICENCE CONDITION</b>
7	Vehicle Age	Stretched limousines to be licensed in accordance with the Licensing Authority's current PHV standards policy.
8	Insurance	An appropriate insurance policy must be in place which covers use of the vehicle for hire and reward.
9	Tyres	The limousine must be fitted with tyres that meet both the size and weight specification.
10	Maximum Passengers	<p>The limousine's seating capacity must be reduced where necessary to a maximum of 8 passengers.</p> <p>Any seats in the driver's compartment other than the driver's seat shall not be used to carry passengers</p> <p>The vehicle must not carry more than 8 passengers at any time. (A babe in arms is classed as a passenger no matter what their age).</p> <p>In any advertisement publicising their limousine service, the operator must state that the vehicle is only licensed to carry 8 passengers.</p>
11	Seatbelts	Seatbelts must be fitted to all forward and rear facing seats and must be worn at all times by passengers whilst the vehicle is in motion. There is no legal requirement for seatbelts on sideways facing seats.
12	Fire Extinguisher	The vehicle must contain a fully functional portable multi-purpose powder type fire extinguisher which bears a kite mark and a last service sticker. The extinguisher must be securely fitted, accessible and ready for use at all times.
13	Alcohol	<p>Alcoholic drinks provided in the vehicle shall be under the terms of an appropriate licence relating to the sale and supply of alcohol</p> <p>Alcohol shall only be served while the vehicle is stationary and afterwards, the bottle shall be placed in a secure receptacle.</p> <p>If the occupants are below the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.</p> <p>Any glassware in the vehicle must be made of either shatterproof glass or plastic.</p>
14	Entertainment	<p>The driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the passengers in the vehicle.</p> <p>The limousine operator shall ensure that a performing rights licence is held where appropriate.</p> <p>If the limousine parks to provide some form of entertainment to its passengers, an entertainment licence must be in place in accordance with the Licensing Act 2003.</p>
15	Council Notices	The proprietor shall when directed by the Council, display and maintain any notices in a conspicuous position.
16	Advertisements	No other signs, notices or any other markings will be displayed on or in the vehicle without the written permission of the Council.

## **DRIVER AND OPERATOR LICENSING REQUIREMENTS**

- In addition to the limousine being licensed as a private hire vehicle, the limousine operator is required to hold a private hire operators' licence with the Licensing Authority.
- All bookings for a limousine licensed as a private hire vehicle must be booked through the licensed private hire operator.
- Once licensed as a private hire vehicle, the limousine can only be driven by a Torbay Council licensed driver.

## **VEHICLE TESTING STATIONS**

Stretch limousines will normally be required to provide 6 monthly (i.e. 2 per annum) MOT certificates from a VOSA goods vehicle testing station, or alternatively a Local Authority VOSA approved class 5 testing station, that has appropriate facilities.

If you propose to obtain an MOT from any other vehicle testing station other than those listed above you are advised to contact the licensing section before submitting the vehicle for an MOT, otherwise you may find that the certificate cannot be accepted.

## APPENDIX F

### Advertising Standards

#### Permitted Sites for Advertisements

##### **Hackney Carriage Vehicles:**

All Hackney Carriage vehicles licensed by Torbay Council must display within the vehicle the current tariff and should not be concealed from passengers at any time.

Advertisements may be permitted on the rear/offside doors of the vehicle so long as they do not have the potential under any circumstances to distract other road users. Advertising signs must be no larger than 24 inches (61cm) long and 12 inches (30.5cm) wide.

An advertisement of one subject matter from one advertiser per vehicle may be permitted on the rear doors.

Vehicles may display the operator's company name, company logo, telephone number and/or web site address on the front doors by way of adhesive stickers or by magnetic signs, if the specific criteria for doing so are met (as per page 54 of this Policy). The size for these types of signs must be no larger than 24 inches (61cm) long and 12 inches (30.5cm) wide.

A company telephone number may also be advertised on the upper nearside of the front windscreen – the size and style to be agreed by the Licensing Authority.

**Proprietors are recommended not to order any signs until a formal application has been made to the Licensing Authority and permission in writing has been issued. Such permission will relate only to the vehicle applied for and not any subsequently licensed vehicle.**

##### **Private Hire Vehicles:**

Advertisements are not permitted on the exterior of the vehicle.

Private Hire vehicles must display two identical signs on the outside of the front doors. So as not to cause confusion with Hackney Carriages, such door signs shall be limited to the words: "Private Hire Vehicle", "Advanced Bookings Only".

These signs can be either adhesive or magnetic signs. The size of these signs must be no larger than 22 inches (55.9cm) long and 9 inches (22.9cm) wide.

The sign must carry the words "Private Hire Vehicle" and "Advanced Bookings Only", it must also carry a landline telephone number where a prospective passenger can make the journey booking.

A company telephone number may also be advertised on the upper nearside of the front windscreen – the size and style to be agreed by the Licensing Authority.

The words “Taxi” or “Cab” must not appear anywhere on the vehicle.

No other word e.g. “Kab” or a variation thereof is to be used to lead or cause the general public to reasonably believe the vehicle is a Hackney Carriage and would be available for hire.

### **Sites Where Advertisements are not Permitted**

#### **Both Hackney Carriage and Private Hire vehicles:**

No signage or advertising is permitted on any part of glazing on the vehicle, unless the sign is informing passengers not to smoke, eat or drink or to indicate that credit/debit card payments may be made at a size agreed by the Licensing Authority.

No signage permitted on the glazing must hinder, obscure or restrict the vision of the driver or passenger.

No signage or advertising is permitted internally within the vehicle.

No signage or advertising is permitted on any body part of the vehicle other than those specified above in permitted sites of advertising.

No signage must hinder or obscure or otherwise prevent the vehicle registration number, vehicle lights or Licensing Authority licence plate from being seen.

#### **Other signage:**

The Licensing Authority will allow the following types of other signage within the licensed vehicle

- Any sign indicating membership of a national motoring organisation or local taxi association.
- Any sign provided by Torbay Council or Devon County Council to show that the vehicle is used for school contracts shall be displayed in the front windscreen in such a manner so as to not obstruct the drivers vision, and may only be displayed when actually employed in the performance of such contract work with pupils being carried
- Signage to show that Card Payments are taken

### **Roof Signs**

**Hackney Carriages** – all vehicles must be fitted with a roof sign of a type approved by the Licensing Authority with the word “Taxi” predominant on the front of the sign and the word “Taxi” or the proprietors trading name, or telephone number, to the rear. The roof sign shall be properly manufactured and comply with relevant legislation.

The taxi roof sign must be mounted above the vehicle roof and be adequately secured.

Fx4 type vehicles are permitted built-in roof signs only.

**Private Hires** – No vehicle is permitted to fit a roof sign

**All vehicles must display the universal no-smoking sign in each compartment of the interior. Fixed Penalty Notices may be issued for non-compliance under The Smoke-free (Signs) Regulations 2007.**

## APPENDIX G

### Schedule of Taxi Rank Provision

Taxi Ranks Located Within Torbay Council Area: allocated under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.

LOCATION	VEHICLE ALLOCATION
<b>Torquay</b>	
Lymington Road (Town Hall Car Park)	Up to 3 vehicles
Lymington Road (Assembly Rooms)	Up to 1 vehicle
Lymington Road (Coach Station)	Up to 6 vehicles
Castle Circus	Up to 3 vehicles
Union Street	Up to 10 vehicles
GPO Roundabout	Up to 3 vehicles
Chestnut Avenue	Up to 3 vehicles
Victoria Parade	Up to 7 vehicles
Victoria Parade (18:00 – 06:00)	Up to 4 vehicles
The Strand	Up to 3 vehicles
The Strand Bus Bays – Seaward Side (00:00 to 06:00)	Up to 10 vehicles
Cary Parade	Up to 8 vehicles
Torbay Road - Princess Theatre (18:00 – 08:00)	Up to 3 vehicles
Torwood Street (18:00 – 08:00)	Up to 4 vehicles

<b>Paignton</b>	
Palace Avenue	Up to 2 vehicles
Torbay Road (18:00 – 08:00)	Up to 3 vehicles

<b>Brixham</b>	
Bank Lane	Up to 7 vehicles

For Horse-Drawn Hackney Carriages

LOCATION	VEHICLE ALLOCATION
<b>Torquay</b>	
Vicarage Hill, Cockington	Up to 2 carriages
Cockington Lane	Up to 4 carriages

## APPENDIX H

### Fares Increase Procedure

- 1.1 The application will be placed before the next available meeting of the Licensing Committee/Sub-Committee of the Council for their consideration, and
- 1.2 The Committee will refuse, approve or amend any part of the application
- 1.3 No increase in fares can come into operation until the proposals have been advertised as required and objections have been considered
- 1.4 Any fare increase approved must be set into the taximeter within one week of the date on which such increase comes into force
- 1.5 No proprietor may charge any fare increase until the due date and the taximeter has been re-calibrated to the new fares
- 1.6 All taximeters must be checked and sealed by the Licensing Authority's authorised officer prior to being used for hire and reward in any vehicle

## APPENDIX I

### Dress code of Licensed Drivers

The Licensing Authority is committed to encouraging the professional image of the trade and it considers that drivers should conform to a minimum standard of dress, as set out below, in order to:

- Raise and maintain the profile of the licensed trade
- Promote confidence amongst members of public to ensure passengers feel comfortable when using licensed vehicles
- Promote public safety by ensuring the safe operation of licensed vehicles at all times and that licensing drivers are readily identifiable

#### **Acceptable Standards of Dress:**

- The driver shall be clean and tidy in appearance
- Shirts, blouses, T-shirts, or sweat tops should cover the shoulders and be of sufficient length to enable them to be tucked into trousers or shorts
- Shirts or blouses can be worn with a tie or open-necked
- Trousers may be either full length or shorts if tailored
- Smart jeans type trousers are permitted
- Footwear should fit around the heel of feet
- Tailored hats which are used as part of a chauffeur service

#### **Unacceptable standards of dress within this Code:**

- Bare chests
- Unsuitable/Unclean or damaged clothing or footwear
- Clothing with offensive words, logos or graphics
- Swimming costumes
- Sleeveless vests or singlets
- Clothing with studs or sharp edges
- Any footwear that may compromise control of a vehicle, e.g. Flip Flops or open toe sandals

- Headwear (e.g. hats, scarves, hoodies, baseball caps) whilst within the vehicle, unless worn as part of a religious belief.
- Hooded garments ('hoodies')

## APPENDIX J

### Horse Drawn Carriages

The Licensing Authority licences horse drawn hackney carriages and drivers, as in accordance with the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.

The following shall apply to horse drawn hackney carriage licences issued by the Licensing Authority.

#### 1. Drivers

- 1.1 All drivers wishing to operate a horse drawn hackney carriage must obtain a licensed drivers badge from the Licensing Authority before commencing service.
- 1.2 The procedure for obtaining such a licence can be found on page 11 of this Policy. Sections 5 to 13 of the Policy apply to all licensed drivers.
- 1.3 As part of the application process, the applicant will need to obtain a valid certificate of driving competency issued by or on behalf of the British Driving Society.
- 1.4 Drivers wishing to operate a horse drawn hackney carriage only and NOT a motorised hackney carriage vehicle do not have to undertake a local knowledge test as part of the application process. Those drivers wishing to operate both horse drawn and motorised hackney carriage vehicles are required to undertake the local knowledge test as part of the application process. The local knowledge test is, as specified by the Local Authority

#### 2. Carriages

Requirements of carriages

- 2.1 The carriage must be drawn by only one horse
- 2.2 The carriage must have 4 wheels
- 2.3 The carriage must have a separate compartment for the passengers to be carried in
- 2.4 The carriage must be capable of carrying a minimum of 4 passengers and a maximum of 6 passengers
- 2.5 The carriage must have sufficient access steps, designed to ensure safe access of passengers into and from the carriage
- 2.6 The carriage must have an independent, efficient and effective braking system
- 2.7 Any horse which pulls a hackney carriage must be fitted with an effective harnesses and tack to ensure that the driver able to control the horse at all times and steer the carriage as required
- 2.8 The hackney carriage and all its fittings and equipment, will at all times while in use or available for hire, be kept in an efficient, safe, tidy and clean condition.

2.9 An Authorised Officer of the Licensing Authority or Police Officer shall, at all times when the hackney carriage is not hired, be permitted to inspect the carriage, harnesses and fittings so as to ascertain the fitness of the carriage for continued use for hire and reward.

### 3. **Insurance Requirements**

3.1 The hackney carriage must, at all times whilst licensed, have adequate Public Hire Insurance cover, appropriate to the use of the carriage on the public highway. A certificate and/or policy covering "third party" risks must be produced to the Licensing Authority prior to a vehicle being licensed as a horse drawn hackney carriage.

### 4. **Grant and Renewal of Carriage Licenses**

4.1 The Licensing Authority will, providing that all the Licensing Authority's requirements are met; issue a 12-month licence which will run from 1<sup>st</sup> May to 30<sup>th</sup> April.

### 5. **Identification plates**

5.1 The Licensing Authority will provide a licence plate, identifying the carriage as a licensed horse drawn hackney carriage. Any such plate will have a licence number on it and must be displayed at the rear of the carriage and must be visible at all times.

### 6. **Signage & Advertising**

6.1 The Licensing Authority will permit, on the same terms as those currently in force for motorised hackney carriages, advertising on horse drawn hackney carriages. However any such advertisements must be approved by the Licensing Authority in advance of the carriage undergoing any such modification.

6.2 The conditions for advertising are set out in **Appendix F** of this Policy

### 7. **Welfare of Horses**

7.1 No horse shall be used in connection with a licensed horse drawn carriage, unless a veterinary surgeon has examined the horse within the preceding twelve months and issued a certificate of fitness in respect of that horse.

7.2 The horse must be sound and free from lameness, be at least six years of age and must not be used whilst under any veterinary treatment, unless written permission is expressly given by the surgeon. If any horse proposed for use is not six years of age, then a specific certification must be obtained at the applicants' expense, from the British Driving Society as to that horse's suitability for use.

7.3 The person responsible for providing the hackney carriage for hire shall examine the horse and carriage carefully at the start of each day, to ensure that the health of the animal and a good condition of the carriage and harness are maintained at all times.

7.4 The licensed driver must have due regard to extreme or adverse weather conditions, including hot sunshine, and must at all times consider the horse's welfare.

7.5 The horse must be regularly and competently shod.

7.6 If in the opinion of an Authorised Officer of the Licensing Authority or a Police Officer, the horse appears unfit for work, then the use of that horse shall cease immediately until such time as a veterinary surgeon specialising in large animal practice has certified that the horse is fit. The fees for such an examination are the responsibility of the carriage proprietor.

## 8. **Fares**

- 8.1 The current tariff in respect of horse drawn hackney carriages must be displayed in a prominent position so that a prospective passenger can see the tariff prior to boarding the carriage.
- 8.2 On receipt of a request for consideration of an increase in fares from a horse drawn carriage operator, the Licensing Authority will follow the procedure set out in **Appendix H** of this Policy.
- 8.3 The setting of horse drawn hackney carriage fares is the function of the Councils Licensing Committee.
- 8.4 A fares tariff is enforceable as a Byelaw and it is an offence for any person to charge more than the set fare.

## 9. **Change of carriage by an existing proprietor**

- 9.1 An existing proprietor must notify the Licensing Authority of any change of horse or carriage, from those registered with the Licensing Authority, before such change occurs.

## 10. **Removal of Faeces**

- 10.1 The proprietor shall ensure that the design of the carriage is such that, as far as is practicable, no faeces will be deposited on the highway/road. Any device used, must not cause distress or discomfort to the horse. Any faeces that are deposited on the highway/road are to be removed as soon as is practicable to do so.

## 11. **Change of Address**

- 11.1 The licensed driver or carriage proprietor shall immediately notify the Licensing Authority of any change of address during the period of licence prior to such change taking place, and in any case within 5 working days of such change.

## 12. **Convictions**

- 12.1 The proprietor must notify the Licensing Authority, in writing, immediately and within 7 days of receipt of any conviction.

## 13. **Permitted routes for use**

- 13.1 Torbay Council horse drawn hackney carriages are permitted to operate around Cockington Village, around the area of Cockington Court and to Torquay seafront (not entering the seafront) only. Permission to operate in the grounds of Cockington must be sought from the land owner.



Public Agenda Item: **Yes**

Title: **Wheelchair Accessible Vehicles**

Wards Affected: **All**

To: **Licensing Committee** On: **19 January 2017**

Contact Officer: **Steve Cox**  
☎ Telephone: **01803 208034**  
✉ E.mail: **Steve.cox@torbay.gov.uk**

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

1.1 This report discusses the work undertaken to date with regard to attempting to achieve an aspirational target of 20% of Wheelchair Accessible Vehicles.

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

2.1 That no additional work is undertaken to increase the percentage of wheelchair accessible vehicles in either the Hackney Carriage and the Private Hire fleets at this time.

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

3.1 By the provisions of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.

3.2 Over the period of the last four years officers have been looking at ways to increase the percentage of wheelchair accessible vehicles licensed in Torbay. This has led to a doubling of the percentage of wheelchair accessible vehicles, from 3-4% to 6-8%, but this has remained stubbornly at this level for several years.

3.3 Advice has been sought on how to increase the percentage of wheelchair accessible vehicles, and number of options have been considered and consultation has taken place on those options. However the consultation response was low and none of the options have been universally received. A review of the perceived lack of wheelchair accessible vehicles was undertaken in response to the findings but this has not been able to evidence a problem. There have been no recent Council complaints and no disability user group has engaged during two consultations with them, suggesting to Torbay Council there is no significant problem.

- 3.4 Significantly, however, there is a new Private Hire company who is dedicated to providing wheelchair accessible vehicles, which is advertised on the Council website along with other providers. They have informed the Council that residential homes and school trips provide the vast majority of their work. Additionally the percentage of available vehicles is significantly above the percentage of the population that is estimated to be wheelchair users, which is 2.2%. It is therefore recommended that no further work is undertaken to try to raise the percentage of wheelchair accessible vehicles due the lack of a clear need and the difficulty in finding an easy methodology to do so.

**For more detailed information on this proposal please refer to Appendix A.**

**Frances Hughes**  
**Assistant Director (Community and Customer Services)**

## Appendix A – Supporting information to Report

### A1. Introduction and history

- A1.1 By the provisions of the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.2 On the 31<sup>st</sup> January 2013 Licensing Committee agreed to amend the Hackney Carriage and Private Hire Licensing Policy to include an aspirational target of 5% of both fleets being wheelchair accessible by 2018. See Appendix 1, under point 16 (iv).
- A1.3 This was achieved by the 30<sup>th</sup> September 2013, with 6.8% of the Hackney Carriage Fleet (11 out of 169) and 7.2% of the Private Hire Fleet (21 out of 293) being wheelchair accessible, mainly as a result of extending the life of a wheelchair accessible vehicle licence from 8 to 10 years.
- A1.4 On the 15<sup>th</sup> May 2014 Licensing Committee agreed to undertake a survey of drivers and owners during the 2014 Unmet Demand Survey and to seek advice from the authors of the report on ways to increase the percentage of wheelchair accessible vehicles. See Appendix 2, under point 6.
- A1.5 Meanwhile, the percentage of wheelchair accessible vehicles did not change significantly over the next 18 months, remaining for both Private Hire and Hackney Carriage fleets at between 6-8%. In response to this Licensing Committee on the 22<sup>nd</sup> January 2015, proposed a new aspiration of 20% of vehicles to be wheelchair accessible. This would be an amendment to condition 14.16 below, if implemented. See Appendix 3, under point 12.

*“The Licensing Authority aspires to achieve 20% wheelchair accessible vehicles by 2018 with regard to both hackney carriage and private hire vehicles.”*

- A1.6 On the 4<sup>th</sup> June 2015, the Unmet Demand Study report was presented to Licensing Committee, with the following key points.

The provision of Wheelchair Accessible Vehicles were benchmarked against other authorities which are classified by the Audit Commission as it's statistically nearest neighbours to Torbay. Torbay was the ranked lowest amongst those 10 Local Authorities; see Section 8.1 of the report in Appendix 4.

- A1.7 Section 8 of the report identifies a number of methods that are being tried or have been successful in other areas in increasing the percentage of Wheelchair Accessible Vehicles. The report also identifies that about half the trade would not be prepared to change to Wheelchair Accessible Vehicles for any reason. In addition all parties believe that a mixed vehicle fleet is the best vehicle fleet. See Section 8 of the report in Appendix 4.
- A1.8 Section 8.5 recommends incentives are implemented to encourage or require the uptake of Wheelchair Accessible Vehicles. See Section 8.5 of the report in Appendix 4. This could include

- Reducing the fee for new or/and renewal Wheelchair Accessible Vehicles for a time limited period.
- Requiring all transferred licences to become Wheelchair Accessible Vehicles.
- Requiring all new vehicles with 5 seats or over to be Wheelchair Accessible Vehicles, but allowing for an increase in the Hackney Carriage tariff when there are 5 or more passengers.

A1.9 At the Licensing Committee meeting on the 4<sup>th</sup> June 2015 a report made a number of proposals for consultation, based upon advice from the authors of the report above. This was agreed by Licensing Committee, see Appendix 5. These consultation proposals were as follows, (though please note that the dates are not relevant)

- (i) Torbay Council will offer a financial incentive to encourage members of the licensed trade to 'plate' wheelchair accessible vehicles by cutting the cost of licensing a vehicle of this type by 50%.
- (ii) Torbay Council will require all new and replacement Hackney Carriage and Private Hire Vehicles from the 1<sup>st</sup> May 2016 to be wheelchair accessible. We would continue this policy until such time as we have achieved a minimum 20% of the entire fleet as wheelchair accessible.
- (iii) Torbay Council will require, from 1 May 2016 that all new Hackney Carriage Vehicles with 5 passenger seats or more to be wheelchair accessible. Those vehicles will have a higher rate of tariff set for journeys where 5 or more passengers are carried.

A fourth option was added, which was similar to the final recommendation in the Unmet Demand Study report.

- (iv) Torbay Council will issue additional new (not replacement) Hackney Carriage licences to operators opting to plate wheelchair accessible vehicles, thus increasing the number of current full-time Hackney Carriages above current limitations. Although limitations on Private Hire Vehicles numbers do not exist, Torbay Council will only issue licences for new Private Hire Vehicles where these are wheelchair accessible.

A1.10 The consultation took place in November and December 2015. Letters were sent to all licensed plate holders, drivers and operators. In total 50 replies were received. This represented about 10% of the trade. However no replies were received from disabled user groups.

A1.11 The most popular option was (iii) above, supported by 33 of the responders, and all were Hackney Carriage plate owners. The support for the other three was more even, with 5 supporting option (i) and (iv). These were mostly from the Private Hire trade. Option (ii) only received one supporting response.

A1.12 There was also a number of comments from responders saying that the financial incentive under option (i), was not enough to encourage the purchase of a wheelchair accessible vehicle due to the cost of such a vehicle.

- A1.13 These results don't identify any clear support or pattern, except for possibly option (iii). However this option would result in a reduction in the fleet make up as it would effectively remove vehicles known as 'people carriers' from the fleet, as they are designed to carry 5 or 6 people. This is therefore currently discounted.
- A1.14 Since there does not appear to be a clear option, officers decided before further work was undertaken to review whether there is in fact a problem of a lack of wheelchair accessible vehicles, or whether this is a perceived problem.
- A1.15 The outcome of that review was that Torbay Council receives no complaints about lack of wheelchair accessible vehicles. It consulted again with disabled user groups and gave them an opportunity to meet with officers. This however still resulted in no significant engagement. Finally it reviewed the population profile, which identified an estimated 2.2% of the population are wheelchair users, though these are not necessarily wheelchair bound.
- A1.16 Further to the above, there is also a new taxi company, called The Wheelchair Cab Company, which along with other wheelchair accessible vehicles is advertised on our website. Their main clientele is residential homes and school runs.
- A1.17 The current percentage of wheelchair accessible vehicles remains very similar as the last 3 years at 12 (7.40%) for Hackney Carriages and 24 (7.74%) for Private Hire Vehicles. Although this report relates specifically to wheelchair accessible vehicles, it should be remembered that there is a current legal duty on every Hackney Carriage and Private Hire driver to assist people with disabilities, and the current mixed vehicle fleet can accommodate all other forms of disability, which includes wheelchairs, if the user can stand briefly and be seated in a vehicle. This is often the case with wheelchair users.
- A1.18 It is therefore the view that there is not the problem that has been previously perceived, and therefore the recommendation is to not do any further work or to change the policy at this time. However if members are minded for officers to look at further options, then consideration should be given to option (iv). Professional advice would need to be sought about issuing up to ten new Hackney Carriage plates and restricting them to Wheelchair Accessible Vehicles only. These can also be used for private hire work. There is however no guarantee that any or all of them would be taken up.

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

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

There are no significant risks if the recommendation is followed.

## **A3. Options**

- A3.1 The other option is to consider issuing additional Hackney Carriage licences, though there is no guarantee these will be taken up.

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

A4.1 There are no resource implications for the Council if the recommendation is accepted.

A4.2 However if further work is required then there will be resource implications for both licensing team but also potentially procurement, if at a future date new Hackney Carriage plates are issued.

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

A5.1 There are no environmental sustainability or crime and disorder issues. There is no perceived equality issues either based upon the research undertaken.

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

A6.1 There has been consultation with both the hackney carriage and private hire trade and disability user groups.

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

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

#### **Appendices**

Appendix 1 Minutes of the Licensing Committee 31<sup>st</sup> January 2013

Appendix 2 Minutes of the Licensing Committee 15<sup>th</sup> May 2014

Appendix 3 Minutes of the Licensing Committee 15<sup>th</sup> January 2015

Appendix 4 Hackney Carriage Unmet Demand Study Final Report – Section 8.0 January 2015

Appendix 5 Minutes of the Licensing Committee 4<sup>th</sup> June 2015

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

None

#### **Background Papers:**

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

None



## Minutes of the Licensing Committee

31 January 2013

-: Present :-

Councillor Addis (Chairman)

Councillors Amil, Bent, Brooksbank, Butt, Doggett, Ellery, Hytche, Parrott, Pentney and Stocks

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### 14. Apologies

Apologies for absence were received from Councillors Faulkner (A), Barnby and Cowell.

### 15. Minutes

The Minutes of the meeting of the Licensing Committee held on 27 September 2012 were confirmed as a correct record and signed by the Chairman.

### 16. Hackney Carriage and Private Hire Licensing Policy

Members considered a report on the Hackney Carriage and Private Hire Licensing Policy which had been the subject of a 12 week consultation period. Members were informed that a number of Representations had been received and following consideration by Officers, amendments to the Policy had been proposed and were set out in the submitted report.

At the meeting the Committee received oral Representations from Mr Cree, Mr Le Huray and Mr James.

#### **Resolved:**

That the Hackney Carriage and Private Hire Licensing Policy be approved, subject to the inclusion of the amendments set out in the submitted report with the exception of:

- i) paragraph A1.6, bullet point 5 – Adhesive door signs. The wording of the existing policy is to remain with minor changes being delegated to the Chairman of the Licensing Committee in consultation with the Council's Senior Lawyer for Litigation & Licensing;
- ii) paragraph A1.7, bullet point 2 being amended to '...new Driver Standard Assessments for new drivers and existing drivers who receive **over 6** points...';

- iii) paragraph A1.9 (paragraph 5.13 of the policy), being amended to 'The Licensing Authority aspires that all drivers are trained to BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire Standards **or equivalent qualification which are to the satisfaction of the Licensing Authority**'; and
- iv) paragraph A1.11 (paragraph 14.6 of the policy), being amended to 'The Licensing Authority aspires to achieve **5%** wheelchair accessible vehicles by 2018 with regard to both hackney carriage and private hire vehicles'.

**17. Decisions taken in relation to Licensing Act 2003 applications under delegated powers**

Members noted the report which set out the decisions made under delegated powers by the Executive Head of Community Safety in relation to Licensing Act 2003 applications.

**18. Decisions taken in relation to Gambling Act 2005 applications under delegated powers**

Members noted the report which sets out decisions made under delegated powers by the Executive Head of Community Safety in relation to Gambling Act 2005 applications.

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Chairman



## Minutes of the Licensing Committee

15 May 2014

-: Present :-

Councillor Addis (Chairman)

Councillors Amil, Bent, Brooksbank, Hernandez, Hytche, Tyerman, Doggett, Pentney (Vice-Chair), Stringer, Ellery and Parrott

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**1. Election of Chairman/woman**

Councillor Addis was elected Chairman for the 2014/2015 Municipal Year.

**2. Apologies**

Apologies for absence were received from Councillors Butt, Cowell and Stocks.

**3. Appointment of Vice-Chairman/woman**

Councillor Pentney was elected Vice-Chairman for the 2014/2015 Municipal Year.

**4. Minutes**

The Minutes of the meeting of the Licensing Committee held on 8 April 2014 were confirmed as a correct record and signed by the Chairman.

**5. A review of the night time economy and the Policing Strategy**

Members welcomed Superintendent Claire Armes to the Licensing Committee and thanked her for sharing with them an insight of the Performance Management Review of Torbay's Response to the Evening and Night Time Economy which was undertaken by an Independent Review and Inspections Team between October 2013 and December 2013.

A further, shorter, review is scheduled to take place in September/October 2014 and Superintendent Armes indicated that she would, following this review, be willing to brief Members of its results.

## **6. Wheelchair Accessible Vehicles**

Members noted the progress made to date to achieve the aspiration to make 5% of the Hackney Carriage and Private Hire Fleet wheelchair accessible by 2018.

Members were advised that in the next 12 months there will be an Unmet Demand Survey undertaken by a private contractor, which will involve talking to drivers, owners and users.

Members noted and agreed that a survey should be undertaken of owners, drivers and users of Hackney Carriages and Private Hire Vehicles to identify barriers to the increase in wheelchair accessible vehicles and the recommendations on how to increase the percentage.

## **7. Decisions Taken in Relation to Licensing Act 2003 Applications Under Delegated Powers**

The Committee noted the report which set out the details of the decisions taken by the Executive Head, Community Safety, in relation to the Licensing Act 2003 applications, using delegated powers.

## **8. Decisions Taken in Relation to Gambling Act 2005 Applications Under Delegated Powers**

The Committee noted the report which set out the details of the decisions taken in relation to the Gambling Act 2005, taken by the Executive Head, Community Safety, in relation to the Gambling Act 2005 applications, using their delegated powers.

## **9. Establishment of Licensing Sub-Committee**

The Committee considered a report in relation to the establishment of a Licensing Sub-Committee which would be able to deal with all matters in connection with licensing application. It was noted that the Licensing Act 2003 provided for the establishment of one or more sub-committees (Section 9 (1)), consisting of 3 members of the Committee.

Resolved:

- (i) that a sub-committee of the Licensing Committee be established to comprise of three Members of the Licensing Committee;
- (ii) that the terms of reference of the sub-committee be to consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles) and the Hackney Carriage (Taxi) and Private Hire Policy; and

- (iii) that the Licensing Sub-Committee be exempt from the rules of Committee proportionality, as defined in the Local Government and Housing Act 1989 and supporting regulations; and
- (iv) that the Governance Support Manager (in consultation with the Chairman), be authorised to empanel Members of the Licensing Committee to serve on the Licensing Sub-Committee as and when required.

Chairman

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## Minutes of the Licensing Committee

22 January 2015

-: Present :-

Councillor Addis (Chairman)

Councillors Amil, Bent, Brooksbank, Hytche, Doggett, Ellery and Parrott

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### 10. Apologies

Apologies for absence were received from Councillors Cowell and Tyerman.

### 11. Minutes

The Minutes of the meeting of the Licensing Committee held on 15 May 2014 were confirmed as a correct record and signed by the Chairman.

### 12. Results of Unmet Demand Study of Taxis in Torbay 2014

Members considered a report that detailed the outcome of an unmet demand study commissioned by the Council in response to the guidance issued by the Department for Transport. In order to comply with the requirement the Council engaged the services of the Halcrow Group Limited to undertake the study.

Liz Richardson from Halcrow Group Limited advised the Committee that the report highlights the results of the rank observation survey. The rank observation programme covered a period of 252 hours during October 2014, excess supply was experienced during 16% of the hours observed while excess demand was experienced 10% of the hours observed. The rank observation data has also shown the level of demand for taxis at the rank has increased by 17.6%.

The outcome of the survey is that there was no unmet demand.

Halcrow Group Limited were also asked to review and identify methods for increasing the percentage of wheelchair accessible vehicles (WAV's), they were asked to:

- determine the level of provision of WAV's across the Taxi and Private Hire industry in Torbay;
- determine the demand for WAV's across the Taxi and Private Hire Industry in Torbay; and
- recommend a scheme on how to increase the percentage of WAV's across the Taxi and Private Hire industry in Torbay.

The Halcrow Group Limited recommended that the Council initially advertises on its website and with disability groups, the availability of WAV's in the first instance, the study also suggested other incentives that would require a further piece of work to be undertaken before formal recommendations can be put forward.

Members welcomed the idea of advertising the availability of WAV's on the Council's website and requested when considering policy changes that an aspiration of 20% of the vehicle fleet be WAV's.

Resolved:

- i) that the current quantitative limit of Hackney Carriage licences of 162 full time licences, with seven additional summer only licences be approved;
- ii) that the Environmental Health Manager (Commercial) forward the report to the Executive Head for Residents and Visitors and Senior Service Manager Environmental Policy with a formal request that consideration be given to providing an additional rank on either Kurnow Road or Torbay Road in Paignton and the rank outside Lymington Road Coach Station, Torquay be relocated within the Coach Station itself.
- iii) that a report detailing proposals to deliver a significant increase in the provision of wheelchair accessible vehicles be presented to a future meeting of the Licensing Committee.

**13. Decisions taken in relation to Licensing Act 2003 applications under delegated powers**

The Committee noted the report that set out the decisions taken in relation to Licensing Act 2003 applications by the Executive Head Community Safety under delegated powers.

**14. Decisions taken in relation to Gambling Act 2005 applications under delegated powers**

The Committee noted the decisions taken in relation to the Gambling Act 2005 applications in Torbay by the Executive Head Community Safety under delegated powers.

**15. Vote of Thanks**

The Chairman announced that he would not be re-standing as a Councillor and took the opportunity to thank members of the Licensing Committee for their support and wished them well with their future endeavours.

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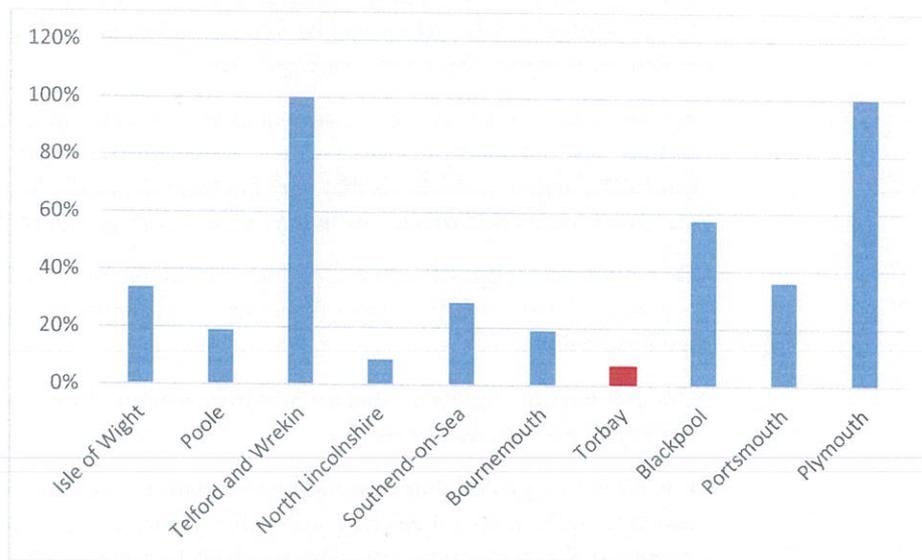
Chairman/woman

## 8 Assessment of Taxi Services for people with disabilities

### 8.1 Review of Existing Provision

There are currently some 11 wheelchair accessible hackney carriage vehicles licensed in Torbay equating to 6.8% of the fleet. There are 21 wheelchair accessible vehicles in the private hire fleet equating to 7.4% of the private hire fleet. Figure 8.1 details the proportion of wheelchair accessible vehicles in the Torbay hackney fleet against its comparable authorities.

Figure 8.1 Proportion of hackney fleet that is accessible



Torbay has the lowest proportion of wheelchair accessible vehicles in the hackney fleet. Telford and Plymouth have the highest at 100%.

Discussion with a number of UK licensing authorities identified a number of ways that they were trying to increase the proportion of wheelchair accessible vehicles. Brighton and Hove Council looked to encourage the take up of WAVs in two ways:

Firstly, they insist that all vehicles that are able to carry 5+ passengers must be a WAV. These vehicles are then able to charge 1.5 times the fare when carrying more than 5 passengers.

Secondly and Brighton's greatest success is the policy of ensuring that when a vehicle is 'transferred' to another person it must become a WAV at renewal. This has resulted in an increase of the WAV fleet from 23% in 2010 to a current level of 40%.

West Dunbartonshire Council have tried to address this problem. The Committee determined that 20% of the hackney fleet should be WAVs. The authority are looking to consult with the trade on how best this is achieved.

Stroud District Council have recently taken steps to encourage the purchase of WAVs. Following a benchmarking exercise the authority decided to waive 50% of the application fee if an application related to a WAV. This policy came into being in June 2014 and is for a period of 12 months, when it will be reviewed.

## 8.2 Demand for Wheelchair Accessible Vehicles

A focus group was held with members of the Torbay Coalition of Disabled People. One of the group used a motorised wheelchair.

Attendees had varying levels of usage of taxis in Torbay. Those who could use public transport preferred to do so as they found this much cheaper.

The overall view from the group was that there is no one vehicle that can satisfy everyone's needs. One of the attendees preferred a saloon vehicle as he prefers to transfer from his wheelchair and he found minibuses or purpose built taxis too high to step into. Other participants preferred MPVs.

Participants stated that when using taxis they always seemed to feel that 'they were putting taxi drivers out of their way.'. However the group said that they tended to ignore the negative reactions that they got from the trade. It was noted that there were also some very good drivers in Torbay who would go out of their way to help.

One attendee suggested that training should be provided to operators. On one occasion when this lady's usual firm weren't available the operator stated 'the driver won't like that'.

One participant suggested that an incentive scheme should be introduced for drivers, to reward good customer service.

It was also suggested that it would be of benefit for Torbay Council to provide a list of taxi operators with wheelchair accessible vehicles. This would make it easier for people to obtain the most appropriate wheelchair accessible vehicle.

## 8.3 Mystery Shopper Exercise

Three members of the Torbay Coalition of Disabled People agreed to take part in a mystery shopper exercise. A number of journeys were arranged by both ambulant disabled people and those unable to transfer from a wheelchair. Seven journeys were attempted in total. Out of the 7 journeys only 6 were undertaken – on one occasion the operator did not have any available wheelchair accessible vehicles and so the individual was unable to make the journey. Each taxi journey was rated on a list of criteria (see table 8.1). With regard to the ease of prebooking the vehicle, the majority were happy with the level of service.

However when shoppers were asked to rate the length of time they had to wait for a vehicle, on two occasions the rating was 'very poor'. On one occasion the vehicle was sent to the wrong address and on the second occasion there was a 90 minute wait for an accessible vehicle. Of those individuals requiring to use the ramps, all were satisfied with the correct use of the ramps. Overall the mystery shoppers were pleased with how their wheelchairs were clamped into the vehicle. However on two

occasions when travelling in a Peugeot Partner the user noted that they were only clamped in by one clamp – but they did not know if this was a quirk of the vehicle. Customer Service was rated highly by the majority of travelers. The majority of travelers considered the price to be ‘average’ and one mystery shopper noted differences of a £1 in price for the same journey. Quality of driving was also rated highly. However when the type of vehicle was rated there was a greater variation in rating. On one journey the vehicle was rated as ‘very poor’ because it was a minibus and the individual had difficulty accessing the vehicle. On the occasions where the vehicle was rated as ‘Poor’ this was due to the lack of headroom in the vehicle – a Peugeot Partner.

Additional comments were made by one user who liked the smaller Ford transit vehicle for travelling in.

Table 8.1 Journey Ratings

	Very Poor	Poor	Average	Good	Very Good
Ease with prebooking the vehicle			✓	✓	✓✓✓✓
Length of time had to wait for the vehicle	✓✓		✓		✓✓✓
Correct use of ramps					✓✓✓✓
Correct securing of the wheelchair			✓	✓✓	✓
Customer Service			✓✓	✓✓	✓✓
Price			✓✓✓✓	✓✓	
Quality of Driving			✓	✓✓✓	✓✓
Type of vehicle	✓	✓✓	✓	✓✓	

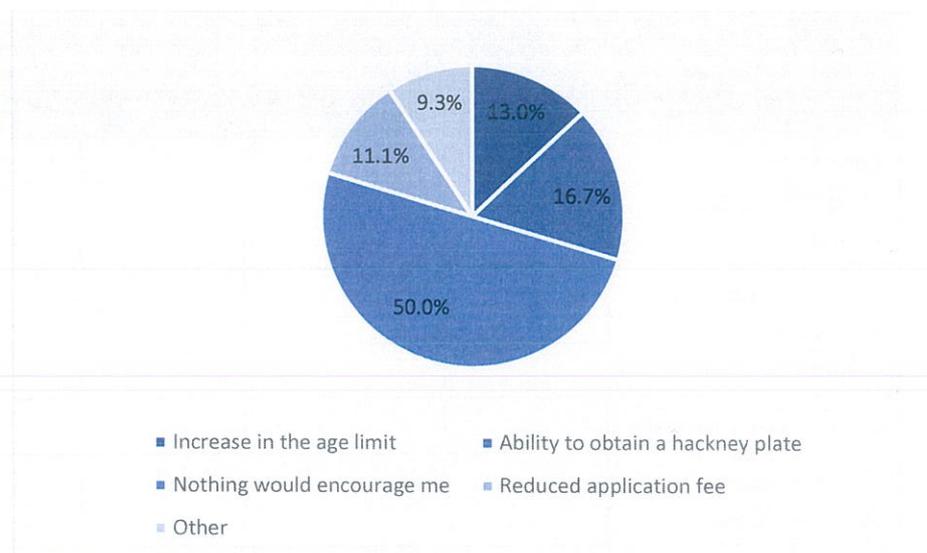
## 8.4 Trade Survey

As part of the trade postal survey detailed in Chapter 7, members of the trade were asked why they had a wheelchair accessible vehicle. Only nine of the respondents drove a wheelchair accessible vehicle. Their reasons for purchasing their vehicle were:

- 'Flexibility – can carry up to 8 passengers'; and
- Versatility;
- Best on the market

Members of the trade were then asked what would encourage them to buy a wheelchair accessible vehicle. Out of the 107 people who responded to this question Figure 8.2 details the results.

Figure 8.2 What would encourage you to purchase a wheelchair accessible vehicle?



Half of respondents stated that nothing would encourage them to purchase a wheelchair accessible vehicle. Some 9.3% of respondents stated 'other'. Suggestions included:

- Increase in wheelchair work;
- Luxury wc accessible vehicles;
- An increase in the taxi fare;
- £15k subsidy towards the cost of the vehicle;
- Guaranteed a reasonable amount of work;
- To be offered a long term contract by Torbay Council;

## 8.5 Recommendations

The trade survey indicated that some 50% of the trade could not be incentivised to purchase a WAV. However this still leaves the remaining 50% of the trade. It is clear from the consultation that a policy of 100% WAV is not suitable for everyone – passengers and the drivers themselves. Before the authority look to increase the number of WAVs in the fleet it is our recommendation that the current WAVs are well publicised and promoted through Torbay Council website and the Coalition of Disabled People. As most WAV users prebook their vehicle it is imperative that users know how to contact the operators of these vehicles.

Once this has been undertaken we feel that the authority should introduce a number of incentives to drivers over a period of time. If these do not work, we suggest the removal of the numerical limit together with the introduction of a high quality WAV policy. This will ensure that there will be considered investment into the trade with high quality, relevant WAVs.

Prior to this we recommend the following:

- change in the policy for 'transferred' vehicles – this has proven successful in Brighton;
- period of 6 months where the application fee for a WAV is reduced.



## Minutes of the Licensing Committee

4 June 2015

-: Present :-

Councillors Barnby, Cunningham, Doggett (Vice-Chair), Ellery, King, Morris, Parrott, Stocks, Stubbley, Sykes and Tolchard

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### 1. Election of Chairman/woman

Councillor Manning was elected Chairman for the 2015/2016 Municipal Year.

### 2. Apologies

An apology for absence was received from Councillor Lang.

### 3. Appointment of Vice-Chairman/woman

Councillor Doggett was elected Vice-Chairman for the 2015/2016 Municipal Year.

### 4. Minutes

The Minutes of the meeting of the Licensing Committee held on 22 January 2015 were confirmed as a correct record and signed by the Chairman.

### 5. Wheelchair Accessible Vehicles

Members were advised that on the 22 January 2015 the Licensing Committee set an aspiration level of 20% for all of the Hackney Carriage and Private Hire Fleet to be wheelchair accessible by 2018 and requested that a report be brought to the next Licensing Committee to consider a range of options.

Members were also advised that an Unmet Demand Survey had been undertaken by a private contractor, which involved talking to drivers, owners and users and what barriers had been identified and incentives to be implemented to encourage Wheelchair Accessible Vehicles.

Members were asked to consider three possible options to achieve the a new aspiration to make 20% of the Hackney Carriage and Private Hire Fleet wheelchair accessible by 2018 and to undertake a public consultation on the potential changes to the Torbay Council Hackney Carriage and Private Hire Vehicle licensing Policy.

## Licensing Committee

Thursday, 4 June 2015

Resolved:

- i) that a public consultation exercise be undertaken for a period of six weeks and that a further report is written for a future Licensing Committee to consider the representations made and any final Policy changes to be agreed; and
- ii) Torbay Council will set the vehicle application or vehicle renewal fee for Wheelchair Accessible Vehicles at half the financial amount set for non Wheelchair Accessible Vehicles;
- iii) Torbay Council requires all new and replacement Hackney Carriage and Private Hire Vehicles from 1<sup>st</sup> November 2015 to be Wheelchair Accessible Vehicles; and
- iv) Torbay Council requires from 1<sup>st</sup> November 2015 that all new Hackney Carriage and Private Hire Vehicles with 5 passenger seats or more, to be Wheelchair Accessible Vehicles and those vehicles will have a higher rate of tariff set for those journeys where 5 or more passengers are carried.

### **6. Decisions Taken in Relation to Licensing Act 2003 Applications Under Delegated Powers**

The Committee noted the report which set out the details of the decisions taken by the Executive Head, Community Safety, in relation to the Licensing Act 2003 applications, using delegated powers.

### **7. Decisions Taken in Relation to Gambling Act 2005 Applications Under Delegated Powers**

The Committee noted the report which set out the details of the decisions taken in relation to the Gambling Act 2005, taken by the Executive Head, Community Safety, in relation to the Gambling Act 2005 applications, using their delegated powers.

### **8. Establishment of Licensing Sub-Committee**

The Committee considered a report in relation to the establishment of a Licensing Sub-Committee which would be able to deal with all matters in connection with licensing application. It was noted that the Licensing Act 2003 provided for the establishment of one or more sub-committees (Section 9 (1)), consisting of 3 members of the Committee.

## **Licensing Committee**

**Thursday, 4 June 2015**

Resolved:

- (i) that a sub-committee of the Licensing Committee be established to comprise of three Members of the Licensing Committee;
- (ii) that the terms of reference of the sub-committee be to consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles) and the Hackney Carriage (Taxi) and Private Hire Policy;
- (iii) that the Licensing Sub-Committee be exempt from the rules of Committee proportionality, as defined in the Local Government and Housing Act 1989 and supporting regulations; and
- (iv) that the Governance Support Manager (in consultation with the Chairman), be authorised to empanel Members of the Licensing Committee to serve on the Licensing Sub-Committee as and when required.



Public Agenda Item: **Yes**

Title: **Decisions taken in relation to Licensing Act 2003 applications under delegated powers**

Wards Affected: **All**

To: **Licensing Committee** On: **19 January 2017**

Contact Officer: **Gary O'Shea**  
Telephone: **01803 207631**  
E.mail: **Gary.oshea@torbay.gov.uk**

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

1.1 To inform Members of the decisions taken in relation to Licensing Act 2003 applications by the Assistant Director Community and Customer Services under delegated powers.

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

2.1 That Members note the decisions made under delegated powers so that they maintain a general overview of the current licensing situation under the Licensing Act 2003.

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

3.1 Torbay Council's "Statement of Licensing Policy" (adopted January 2016) details the scheme of delegation under the Licensing Act 2003. This Policy also requires that the Licensing Committee receive regular reports (section 1.19) on delegated decisions, so that it can maintain a general overview of the current licensing situation.

**For more detailed information on this proposal please refer to Appendix A.**

**Frances Hughes**  
**Assistant Director Community and Customer Services**

## Appendix A – Supporting information to Report

### A1. Introduction and history

A1.1 The Licensing Act 2003 came into force on the 24<sup>th</sup> November 2005. On the 30<sup>th</sup> September 2016 Torbay Council had 805 Premises Licences/Club Premises Certificates; this number is net of licences issued against those that have lapsed or been surrendered during this period. Up to 30<sup>th</sup> September 2016 the Licensing Committee has dealt with a total of 573 premises hearings. Additionally up to 30<sup>th</sup> September 2016, 3143 Personal Licences have been issued, of which 77 were between 1<sup>st</sup> April 2016 and 30<sup>th</sup> September 2016.

A1.2 From 1<sup>st</sup> April 2016 to 30<sup>th</sup> September 2016, Torbay Council has dealt with the following applications under the Licensing Act 2003.

	<b>Total</b>
Premises/Club Premises Applications – New	19
Premises/Club Premises Applications – Variations	6
Premises/Club Premises Applications – Minor Variations	11
Personal Licences	77
Hearings (Licensing Committee/Sub-Committee)	2
Appeals (to Magistrates Court)	0
Temporary Event Notices	195
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Transfers of Premises Licences/Club Premises Certificates	35
Transfers of Designated Premises Supervisors	75

A1.3 The number of applications, being received by the Licensing and Public Protection Team was 36 compared to 25 in the previous 6 months.

A1.4 The number of Personal Licences issued increased slightly from 74 to 77. While the number of Temporary Events Notices (TENs), also showed an increase compared to the last period from 122 up to 195. This increase whilst large would not be considered unusual as it covers the summer period where generally more applications would be expected.

A1.5 There has been no appeals and no reviews during the period. There have been 27 appeals in total, 10 arising from Review decisions.

A1.6 Transfers of Licences and Designated Premises Supervisors variations showed little change.

A1.7 The general picture is therefore still a fairly static.

A1.8 The House of Lords are currently undertaking a review of the Licensing Act 2003. A report is expected around March of this year at which point recommendations will be put to Parliament. There is no information at this time as to what this may include or whether any changes will result from the report. However, locally set fees have not yet been discounted and there is potential for change in a number of areas e.g. Personal licences. Any information that becomes available will be reported to Members of the Licensing Committee at the earliest opportunity.

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

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

There are no risks associated with this report.

## **A3. Options**

A3.1 None. Members cannot change the Officer decisions but need to be appraised of the issues in accordance with the Licensing Policy.

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

A4.1 There is a fairly static picture, so the income has remained the same.

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

A5.1 There are no equalities or environmental sustainability implications, however one of the Licensing Objectives is the "Prevention of Crime and Disorder", so the work will have a positive impact on reducing this.

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

A6.1 There is public consultation on all new and variation applications for a 28 day period.

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

A7.1 There are no significant implications for other Business Units, though the Local Children's Safeguarding Board and several teams within Community Safety are consultees on the applications.

## **Annexes**

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

None

### **Background Papers:**

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

None



Public Agenda Item: **Yes**

Title: **Decisions taken in relation to Gambling Act 2005 applications under delegated powers**

Wards Affected: **All**

To: **Licensing Committee** On: **19 January 2017**

Contact Officer: **Gary O'Shea**  
Telephone: **01803 207631**  
E.mail: **Gary.oshea@torbay.gov.uk**

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

1.1 To inform Members of the decisions taken in relation to Gambling Act 2005 applications in Torbay by the Assistant Director Community and Customer Services under delegated powers.

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

2.1 That Members note the decisions made under delegated powers so that they maintain a general overview of the current gambling situation under the Gambling Act 2005 in Torbay.

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

3.1 Torbay Council's "Gambling Policy Statement" (adopted January 2016) details the scheme of delegation under the Gambling Act 2005. This Policy also requires that the Licensing Committee receive regular reports (Section 9.15) on delegated decisions so that it can maintain a general overview of the current gambling situation in Torbay.

**For more detailed information on this proposal please refer to Appendix A.**

**Frances Hughes**  
**Assistant Director Community and Customer Services**

## Appendix A – Supporting information to Report

### A1. Introduction and history

A1.1 The Gambling Act 2005 came into force on 1<sup>st</sup> September 2007. Torbay Council, as the Licensing Authority are responsible for the Premises Licences issued under the legislation, along with permits for gaming machines in a number of Premises, notably Unlicensed Family Entertainment Centres (UFEC's), Club and Pub Premises. The Gambling Commission are responsible for Operator Licences and Personal Licences.

A1.2 From 30th April 2007, Torbay Council became responsible for the administration and issuing of Premises Licences and UFEC's. Below are the applications dealt with between 1<sup>st</sup> October 2015 and 31<sup>st</sup> March 2016.

	<b>Total</b>
Casino Premises Licences – New	0 (1)
Casino Premises Licences – Variation	0
Bingo Premises Licences – New	0 (8)
Bingo Premises Licences – Variation	0
Betting Premises Licences – New	0 (18)
Betting Premises Licences – Variation	0
Adult Gaming Centre Premises Licences – New	0 (18)
Adult Gaming Centre Premises Licences – Variation	0
Family Entertainment Centre Premises Licences – New	0 (3)
Family Entertainment Centre Premises Licences – Variation	0
Unlicensed Family Entertainment Centre Gaming Machine Permit – New	3 (23)
Temporary Use Notices	0
Reviews of Licences (Licensing Committee/Sub-Committee)	0
Hearings (Licensing Committee/Sub-Committee)	0
Appeals (to Magistrates Court)	0

The numbers in brackets are the total number of each type of Premises Licences issued. There have been 3 applications for Unlicensed FEC's (arcades) which are permitted only Category D machines.

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

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

There are no risks associated with this report.

## **A3. Options**

A3.1 None. Members cannot change the Officer decisions but need to be appraised of the issues in accordance with Torbay Council's Gambling Policy.

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

A4.1 There is no significant additional resource implications from routine Gambling Act work.

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

A5.1 There are no equalities or environmental sustainability implications, however one of the Licensing Objectives is "Preventing Gambling being a source of Crime and Disorder", so the work should have a positive impact on reducing this.

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

A6.1 There is public consultation on all New and Variation Premises Licence applications for a 28 day period before any licence is granted.

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

A7.1 There are no significant implications for other Business Units, though the Local Children's Safeguarding Board is a consultee on all applications.

## **Annexes**

None

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

None

## **Background Papers:**

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

None