

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

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

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **29th September 2022**

Key Decision: **No**

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

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1. What we are trying to achieve

This report asks Members to consider relevant facts relating to the holder of a Torbay Council issued dual Hackney Carriage and Private Hire drivers licence. This follows Torbay Council's Licensing Department receiving a number of complaints in respect of his conduct whilst working as a licensed driver. Further to this, the licence holder has failed to meet specific requirements as set out in the current Hackney Carriage and Private Hire Licensing Policy 2022, by virtue of having failed to inform Torbay Council of accident damage to his Hackney Carriage vehicle. Members are requested therefore to determine on the facts laid before them, whether or not the Applicant remains a 'fit and proper person' to hold such a licence.

2. Recommendation(s) for decision

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

3. Key points and reasons for recommendations

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

Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.

- 3.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an Applicant is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- 3.4 This report follows five separate complaints within the last four months received by Torbay Council's Licensing Department regarding Mr George Savva, who holds a Torbay Council dual drivers' licence number LD0505. The complaints relate specifically to Mr George Savva losing his temper, aggression and driving standards.
- 3.5 Mr George Savva has also failed to notify the Licensing Authority, as required by virtue of its Taxi Policy, of accident damage sustained to the Hackney Carriage vehicle which Mr Savva holds the vehicle proprietors licence for.
- 3.6 It is for the Licensing Sub-Committee to consider whether Mr George Savva remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire drivers' licence.
- 3.7 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

**Steve Cox
Environmental Health Manager (Commercial)**

Annex 1 - Supporting information

A1. Introduction and history

- A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- A1.2 Sections 51 (in respect of Private Hire drivers) and 59 (in respect of Hackney Carriage drivers) of the Act state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.
- A1.3 There is no judicially approved test of fitness and propriety and therefore it is the responsibility of Licensing Authorities to determine whether a driver, or an applicant is indeed fit and proper to hold such a licence. In the absence of such a test, a number of practices have developed over time and have stood up to scrutiny in the Courts and are therefore commonly accepted amongst the majority of Licensing Authorities.
- A1.4 Mr George Savva has been subject to a series of recent complaints about his conduct and driving standards. These are listed in date order below.
- A1.5 On the 7th of June 2022 the Licensing Department received a complaint about the following two incidents which occurred on the 3rd and 6th June 2022, involving Mr George Savva:

On Friday the 3rd of June 2022 on Paignton railway station rank, the complainant entered the rank, and the taxis were parked in various locations. The complainant asked a driver which taxi he should get in and did as he was told. He alleges that Mr George Savva came up to that taxi shouting at him for getting in that vehicle. Mr Savva then proceeded to have an argument with the other driver in front of the complainant and became abusive and would not stop shouting at either the complainant or driver.

The complainant then came back to the same rank on Monday the 6th of June 2022 and spoke to Mr Savva and asked if he would like to apologise for his behaviour from the previous week and Mr Savva simply told, him that he was never wrong, and it was the complainant's fault.

Mr Savva then refused to take the fare of the complainant and as he left the rank with another customer on board, he was shouting at the complainant to such an extent that Mr Savva clipped the roadside kerb and pulled out of the rank onto the main road in front of another car. The car sounded its horn at him, and Mr Savva then proceeded to sound your horn back, wave his arm out of the window and as he drove up to the traffic lights which were on green, he stopped his Taxi. When the lights changed to amber he went through the lights and the car behind then had to wait at a red light. Details of the incident can be found at **Appendix 4**.

- A1.6 On the 30th of June 2022, Devon & Cornwall Police contacted the Licensing Department regarding an incident that had occurred on the 10th of June 2022 at Beverly Holiday Park, Goodrington Road, Paignton involving Mr George Savva.

The Police report is as follows:

The details are as follows, there is no CCTV from the Holiday Park. This case has been closed as word V Word.

Date: Friday 10/06/2022 between 17:45 – 18:00

Location: Beverly Park Holiday Reception. Goodrington Road, Paignton, TQ4 7JE

Account from Victim:

VICTIM IS EMPLOYEE OF HOLIDAY PARK AND POLITELY ASKED THE DRIVER TO MOVE HIS VEHICLE AS IT WAS BLOCKING ENTRANCE AND CAUSING SAFETY ISSUE FOR CUSTOMERS. DRIVER OBJECTED AND BECAME ABUSIVE BEFORE PUNCHING VICTIM ON THE ARM

The male was shouting at main reception doors, as Evening customer services had asked the male to move his car into the drop off zone. (He was blocking the main entrance to the park) The reception manager also came out and he started shouting at her. I walked over to try and deescalate the situation, and politely asked the male to move his car into the drop off as he was blocking people coming and going. The male escalated and started shouting abuse at us all, he said that we are racist, and shouting.

The male continued escalating and threw a punch at myself (against my arm). I detained the male against his own taxi, and told the male to calm down, the male continued to say he would not calm down and making threats. The male (who already has injury to his face, as seen in the photo before the restraint) was telling passers-by that I had caused the injury to his face (which was completely untrue). The male did appear to calm down, so was released. He then did get into his taxi and started moving off. Continuing to shout abuse. He then stopped and reversed back, at the time Venue manager and Bar manager from Beverly showed up and the male listened to them and did eventually leave the site. Lots of witnesses.

This document can be found at **Appendix 3**.

- A1.7 On the 18th June 2022, the Licensing Department received a complaint from a licensed driver that witnessed Mr George Savva verbally abuse an elderly customer on the Paignton Railway Station Taxi rank on the 16th June 2022. The following witness statement was made by that driver and a video of part of the incident supplied.

An elderly passenger tried to get in my car at third position, George Savva was number one and she didn't want to get in with him as she had problems with him before, so I told her to get in with (name removed) who was second car. Well, this is when George Savva clocked her, got out of his car and was verbally abusing her. He was saying "oh its her, where did I touch you, tell me, you fucking bitch, you bastard, lesbian". Now this was a 90 year old lady he was yelling at through another taxi drivers window. I managed to film some of it and he saw I was filming it as you will hear. This is not the first time this has happened to this lady in question, in fact it happens every time she comes on the rank and George Savva is around.

Well ever since Thursday when it happened, he has been trying to intimidate me. As soon as I pull onto the rank, he is out of his taxi standing right beside my taxi

staring in at me, pretending to take pictures of me. And again, on Saturday, as soon as I pulled onto the rank he was up at my car yelling "I know about you and your fucking boyfriend, you killed a girl". To be fair I am not at all intimidated by this stupid vile old man, but his vile abuse towards this poor lady has to stop and so does his actions towards me and other female drivers on the Paignton rank.

This document can be found at **Appendix 1** and a copy of the video recording can be found at **Appendix 2**.

- A1.8 Due to the number of complaints within a short period of time and the serious nature of them, Mr Savva was written to by Shaun Rackley of Torbay Council's Licensing Team on the 4th of July 2022, to request his submission which would be put before Licensing Committee. This document can be found at **Appendix 5**.
- A1.9 Mr Savva has responded by email to the letter of the 4th of July 2022 and explained the three incidents. This document can be found at **Appendix 6**.
- A1.10 On the 8th of August 2022, the Licensing Department received an additional complaint about Mr Savva's alleged threatening behaviour. This incident took place on the 6th of August 2022 and was against another licensed driver on Paignton Railway Station Taxi rank. The following witness statement was made by that driver and a video of part of the incident supplied.

The incident happened on Saturday 6th August 2022 approx 12.20pm. I was stood behind my car talking to (name removed) on Paignton taxi rank when George Savva pulled on. He got out of his car and stood there just glaring at the both of us. He then walked over shouting you two are murderers you killed a women. I am going to give evidence in the court and you are both going to prison. I know what you did and I am going to get some people to murder you! You will get what you deserve. I was car one during this and the family getting into my car were shocked and appalled by his behaviour. For a change he did not swear at me. The family got into my car and as (name removed) was walking back to her car I could see George Savva following her and still shouting at her. As I was about to pull off the rank I could see (name removed) looking visibly distressed in my mirrors so I asked the family if it was ok to make sure she was ok. To which the mum said oh god yes that man is disgusting. That is when I got more verbal from him. He then got back in his car and I pulled away with the customers. Other drivers were on the rank at the time but I don't know why they will not report him or say anything to him about his outrageous behaviour. I do feel the guy has lost the plot!

This document can be found at **Appendix 7** and a copy of the video recording can be found at **Appendix 8**.

- A1.11 On the 12th of August 2022, Mr Savva was again written to by Shaun Rackley of Torbay Council's Licensing team regarding the new complaint made against him. Mr Savva was again requested for a submission be put before the Licensing Committee. This document can be found at **Appendix 9**.
- A1.12 Mr Savva has responded by email to the letter of the 12th of August 2022 but has failed to provide any information relating to the incident. This document can be found at **Appendix 10**.
- A1.13 On the 17th August 2022, the Licensing Department received a further complaint

about Mr Savva's conduct and driving standards surrounding a Road Traffic Collision on the 16th August 2022. It is alleged that Mr Savva driving Hackney Carriage 068, which he holds the vehicle proprietors licence for, failed to stop at a road junction and t-boned the complainant's vehicle, this left the female driver with leg and foot injuries from the crash impact. The Licensing Department is still awaiting the full statement and video footage from the complainant; however, the matter has been reported to Devon & Cornwall Police due to the alleged aggressive behaviour of Mr Savva towards the female driver.

Under Torbay Council's Taxi Policy, the vehicle proprietor must report any accident damage to the Licensing Department within seventy two hours. Mr Savva failed to report this and was subsequently written to by Jonathon Edwards of Torbay Council's Licensing Team to present the vehicle for a full inspection. This inspection took place on the 25th August 2022 and a copy of the vehicle inspection report can be found at **Appendix 12**.

A1.14 On the 5th of September 2022, Mr Savva was again written to by Shaun Rackley of Torbay Council's Licensing team regarding his failure to notify the Licensing Department of the accident damage to his Torbay Council registered Hackney carriage that he holds the vehicle proprietors licence for. Mr Savva was again requested for a submission be put before the Licensing Committee. This document can be found at **Appendix 11**.

A1.15 Mr Savva has responded by email to the letter of the 5th of September 2022. This document can be found at **Appendix 13**.

A1.16 The Statutory Taxi and Private Hire vehicle standards, as issued by the Department for Transport state:

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

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

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

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

Relevant excerpts of Torbay Councils Taxi policy state:

13.1 All drivers are expected to act professionally and in an appropriate manner at all times and are required to adhere to the specified Code of Conduct at Appendix B.

14.12 The proprietor of any Hackney Carriage or Private Hire vehicle must report to the Licensing Authority, within seventy two hours, the occurrence of any accident involving the Hackney Carriage or Private Hire vehicle.

Appendix B: Driver Code of Conduct

1. The driver **must at all times**, when driving a Hackney Carriage or Private Hire vehicle:

c) Behave in a civil and orderly manner towards all persons, including, but not limited to, other road users, pedestrians, customers, the general public, other licensed operators and drivers, police officers, licensing officers and elected Members of the Council

d) Be courteous to all passengers e.g. greeting passengers, assisting with bags, push chairs, wheelchairs etc

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

a) Use offensive, racist, abusive, profane or insulting language or behaviour

i) Obstruct other drivers or vehicles from undertaking their normal hiring and driving activities

A1.17 Members are requested to consider whether Mr George Savva remains a 'fit and proper person' to hold a Torbay Council issued dual Hackney Carriage and Private Hire Drivers' licence.

A1.18 There is a right of Appeal to the Magistrates' Court against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 There are two risks. The first risk to be considered is whether Mr George Savva presents a risk to the general public should he continue to hold a licence to drive a Hackney Carriage or Private Hire vehicle.

A2.1.2 The second risk relates to the potential for an appeal should Mr George Savva's licence be revoked or suspended and/or have additional conditions imposed.

A3. Options

A3.1 The options are:

- (i) To do nothing, if satisfied that Mr George Savva remains a 'fit and proper' person to drive a Hackney Carriage or Private Hire vehicle
- (ii) To give a formal written warning
- (iii) To require additional training and/or to successfully undertake such training i.e. an advanced RoSPA driving course, or, an anger management course, or, an equivalent standard training
- (iv) To suspend Mr George Savva's licence to drive a Hackney Carriage or Private Hire vehicle and to require that additional training and/or an advanced RoSPA driving course, and/or, an anger management course, or, an equivalent standard training is required
- (v) To revoke Mr George Savva's drivers licence on grounds that he is no longer considered to be a 'fit and proper' person to hold such a licence

A4. Summary of resource implications

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

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

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

A6. Consultation and Customer Focus

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

A7. Are there any implications for other Business Units?

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

Documents available in members' rooms

None

Appendices

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| Appendix 1 | Email complaint regarding abuse dated 18 th June 2022 |
| Appendix 2 | Video footage 18 th June 2022 (will be played at the meeting) |
| Appendix 3 | Information received from Devon & Cornwall Police dated 30 th June 2022 |
| Appendix 4 | Complaint details received relating to incidents on 3 rd & 6 th June 2022 |
| Appendix 5 | Letter to George Savva requesting information on 3 incidents and any mitigating circumstances dated 4 th July 2022 |
| Appendix 6 | Response from George Savva supplying information dated 17 th July |

2022

- Appendix 7 Email complaint regarding abuse dated 8th August 2022
- Appendix 8 Video footage 8th August 2022 (will be played at the meeting)
- Appendix 9 Letter to George Savva requesting information on additional incidents and any mitigating circumstances dated 12th August 2022
- Appendix 10 Response from George Savva supplying information dated 15th August 2022
- Appendix 11 Letter to George Savva requesting details due to breach of Taxi Policy dated 5th September 2022
- Appendix 12 Hackney carriage 068 - Vehicle inspection report form dated 25th August 2022
- Appendix 13 Response from George Savva regarding failure to notify Licensing Department of accident damage dated 12th September 2022

Background Papers:

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

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