

Minutes of the Regulatory Sub-Committee

12 June 2025

-: Present :-

Councillors Foster, Stevens and Virdee

5. Election of Chairman/woman

Councillor Foster was elected as Chairwoman for the meeting.

6. Exclusion of Press and Public

Prior to consideration of the items in Minute 4, the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information, as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

7. Application for Torbay Council Driver's Licence

Members considered a report on the fit and proper status of the holder of a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence.

The Licensing Officer presented the report which set out information that a holder of a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence had been found guilty of two offences of harassment without violence under section 2 of the Protection from Harassment Act 1997. Furthermore, that the dual Hackney Carriage and Private Hire Driver's Licence Holder had failed to meet specific requirements as set out in the current Taxi Policy 2022, by virtue of having failed to notify the Licensing Department of a court summons issued in December 2024, in respect of two offences of harassment without violence under section 2 of the Protection from Harassment Act 1997.

Members also received oral representations from the Respondent at the Hearing.

Decision:

That the Respondent's Torbay Council Dual Hackney Carriage and Private Hire Drivers' Licence be revoked in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 and that this revocation shall have immediate effect, in accordance with Section 61(2B) of the Local Government Miscellaneous Provisions Act 1976.

On the separate issue of the Hackney Carriage Vehicle Proprietor Licence, that the Respondent, notwithstanding his convictions, can continue to hold such a licence subject to all other requirements being met.

Reasons for Decision:

As the Applicant failed to arrive for the hearing, Members made an initial determination as to whether the hearing should proceed in his absence. The Licensing Officer confirmed that the Respondent had been made aware of the hearing and had confirmed verbally that he would be attending. Having made 4 attempts to call him and waiting for 5 minutes to pass in case he was simply running late, Members agreed that the Hearing would proceed in the absence of the Respondent, having been satisfied upon hearing from the Licensing Officer that the Respondent was aware of the date, time, and location of the Hearing. Further that correspondence had set out that the Hearing would go ahead in his absence, and that attempts to contact the Respondent by telephone had been made.

At 10.00 hours, 25 minutes after the Hearing had commenced the Licensing Officer received a phone call from the Respondent who advised he had overslept and would be at the Hearing shortly. Following advice from the Legal Advisor, Members determined unanimously that whilst the reason for the late attendance was weak it was in the public interest, and in the interests of natural justice to restart the Hearing with the Respondent present.

In coming to their decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with the respondent alone. An unequivocal and unanimous answer by Members to this question, was "no".

Members were tasked to determine the Respondents fitness and properness following two convictions recently received for the offence of 'harassment without violence' to which the Respondent had been found guilty and eventually reported to the Licensing Department on 12 May 2025, some five months after receipt of his Court summons. Members heard from the Licensing Officer that the Respondent had not fully complied with the requirements of Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy (Taxi Policy), in failing to notify the Licensing Department of his court summons received in December 2024 or his first Court hearing in January 2025.

Members found it difficult to believe that the Respondent would not have been aware that the Taxi Policy required him to notify the Licensing Department of the criminal charges made against him within the required 48 hours, the Licensing Officer having confirmed that in March 2024 the Respondent had followed the Taxi Policy in reporting a road traffic accident involving his vehicle, within the required time. Members were not presented with any evidence to suggest that the Respondent would not have been aware of this requirement, and the Respondent confirmed, when questioned, that he had read the Taxi Policy.

Members were referred to the Taxi Policy and in particular the Criminal Convictions' Policy found at Appendix A, which includes at Section 3, the offence of 'Harassment, alarm or distress, intentional harassment' and 'any other similar offence' under the sub heading of Offences Involving Violence, and that in the case of a licence holder

being convicted of this offence the Licensing Authority may suspend, revoke or refuse to renew the licence.

Whilst the Policy required updating in due course to ensure harassment offences without violence were distinguished between those with violence, this section remained relevant to Members when making their determination. In addition, Members were directed to the Institute of Licensing Suitability Guidance which at paragraph 4.36 states that:

Where an applicant or licensee has been convicted of a crime involving, relating to, or has any connection with abuse, exploitation, use or treatment or criminal harassment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child exploitation, grooming, psychological, emotional or financial abuse, stalking without violence, but this is not an exhaustive list.'

Upon hearing the Respondent's oral submissions surrounding his criminal convictions; that he was not aware of the requirement to notify the Licensing Authority upon being charged believing that the requirement applied to convictions only; and upon consideration of the Respondent's written submissions, Members were not satisfied that the Respondent's circumstances for retaining his Torbay Council Private Hire Drivers' Licence were exceptional so as to enable them to deviate from the Policy. Furthermore, in relation to any financial hardship that may be caused due to revocation, Members were mindful that this is not a relevant consideration and that the protection of public safety is paramount.

In concluding, Members resolved to revoke the Respondent's drivers' licence with immediate effect, as they could not be satisfied that, despite the written personal references provided by happy customers, he remained a fit and proper person to hold a Torbay Council Dual Hackney Carriage and Private Hire Drivers Licence. In determining this, Members believed that the Respondent's conduct as a professional driver which had led to his convictions had fallen below the standards expected of a driver licenced by Torbay Council and resolved that to revoke his licence with immediate effect was both necessary and proportionate, to ensure public safety.

Members further determined that the Respondent remained fit and proper to hold a Hackney Carriage Vehicle Proprietors Licence on the basis that this did not allow direct contact with members of the public.

Chairman/woman

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