

Wednesday, 19 February 2025

REGULATORY SUB-COMMITTEE

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

Thursday, 27 February 2025

commencing at **9.30 am**

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Douglas-Dunbar

Councillor Foster

Councillor Barbara Lewis

A Healthy, Happy and Prosperous Torbay

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

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

REGULATORY SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Sub-Committee.
3. **Minutes** (Pages 3 - 4)
To confirm as a correct record the Minutes of the meeting of a Regulatory Sub-Committee held on 16 January 2025.
4. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence** (Pages 5 - 20)
To consider a report that seeks consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence

Minutes of the Regulatory Sub-Committee

16 January 2025

-: Present :-

Councillors Douglas-Dunbar, Foster and Barbara Lewis

8. Election of Chairman/woman

Councillor Barbara Lewis was elected as Chair for the meeting.

9. Minutes

The Minutes of the meeting of the Sub-Committee held on 11 July 2024 were confirmed as a correct record and signed by the Chairwoman.

10. Application for Torbay Council Driver's Licence

Members considered a report that set out relevant facts relating to an applicant for a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence.

Members were requested to determine based on the facts before them, whether or not the applicant of the dual Hackney Carriage and Private Hire Driver's Licence was a fit and proper person to hold such licence.

At the hearing, the Applicant addressed Members and responded to their questions.

Decision

That the application for a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence be refused.

Reason for Decision

Having carefully considered all the evidence before them, Members unanimously resolved to refuse the application, as they found no reason to depart from Torbay Council's Taxi Policy.

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 Applicant alone. Members' unanimous answer to this question was an unequivocal 'no'.

Notwithstanding the Applicant's remorse and reflective manner before Members, Members could not be satisfied at this time that the Applicant had the required characteristics and awareness to be a licensed driver, given the history and repeat inaccuracies submitted on the application form.

Members considered that whilst the Applicant had stated that a friend had assisted in completing the application form, that the responsibility lay directly with himself as the Applicant. Honesty is integral to the application, and Members found him to be dishonest when completing the form on this occasion.

Members noted that as the Applicant had held a Torbay Council Dual Hackney Carriage and Private Hire Driver's License previously and all Applicants must confirm at the submission stage of their application that they have read and understood the Taxi Policy, and given that a previous Committee had found him to be dishonest on the same inaccurate submission, that the Applicant would have been aware of the Licensing Authority's Convictions Policy, and the requirement to share all convictions.

Members in consideration of all of the Applicant's submission, found him to be naive in that which was required of a professional driver licensed by Torbay Council. Though, Members did not have concerns about the Applicant's driving ability.

In conclusion, Members had careful regard to the criteria set out in Torbay Council's Hackney Carriage and Private Hire Policy and resolved in this instance, that the Applicant was not fit and proper, and found that there was no justified reason to depart from the Policy. This, coupled with the concerns referred to above, resulted in what Members determined to be a proportionate and appropriate decision, in refusing the application at this time, in the interest of public safety.

Chairwoman

TORBAY COUNCIL

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: **Regulatory Sub-Committee** On: **27th February 2025**

Key Decision: **No**

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

Contact Officer: **Shaun Rackley**
Email: Shaun.rackley@torbay.gov.uk

1. What we are trying to achieve

- 1.1 This report asks Members to consider relevant facts relating to the holder of a Torbay Council issued dual Hackney Carriage and Private Hire drivers' licence. This follows receipt of information from the DVLA that the licence holder had been disqualified from driving. The licence holder has also failed to inform Torbay Council of their disqualification and additional DVLA penalty points. Members are requested therefore to determine on the facts laid before them, whether or not the licence holder 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 This report follows a review of the DVLA driver data base in respect of Mr Tamas Pataki, who holds a Torbay Council dual drivers' licence. It was discovered on the 20th of January 2025 that Mr Pataki has 3 current points for speeding on his DVLA issued licence. In addition, Mr Pataki was disqualified from driving any motorised vehicle for a period of 6 months on the 29th of May 2024.
- 3.4 Upon checking the Torbay Council licensing data base and other background systems in respect of Mr Pataki, it shows no reports have been made since March 2023 to report any penalty points, or the disqualification of his DVLA licence. Therefore, Mr Pataki has failed to meet specific requirements as set out in the Torbay Council's Taxi Policy 2022, by virtue of having failed to inform Torbay Council of any DVLA penalty points and a change in circumstances.
- 3.5 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Regulatory Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

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

**Rachael Hind
Regulatory Service Manager (Commercial)
Community & Customer Services**

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 1976 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 This report follows a review of the DVLA driver data base on the 20th of January 2025 in respect of Mr Tamas Pataki, who holds a Torbay Council dual drivers' licence, licence number LD0350. Mr Pataki has held this licence since the 1st of May 2008.
- A1.4 From the DVLA licence check, it was identified that Mr Pataki currently has the following driving convictions:

Conviction 1

Conviction date –	5 December 2023
Sentencing date –	29 May 2024
Offence –	To signify a disqualification under 'totting up' procedure if the total penalty points reach 12 or more within 3 years, the driver is liable to be disqualified (TT99)
Disqualification period –	6 months

Conviction 2

Offence date –	6 November 2023
Conviction date –	31 May 2024
Offence –	SP30 Exceeding statutory speed limit on a public road
Penalty Points –	3 Points
Fine -	£40

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

- A1.5 Upon checking the Torbay Council licensing data base and other background systems in respect of Mr Pataki, it shows no reports have been made since March 2023 to report any penalty points, or the disqualification of his DVLA licence.

The last record of a notification, or report was made in March 2023, where Mr Pataki submitted his licensed driver renewal application. On this application he stated that he had received 3 DVLA penalty points for an SP30 (exceeding statutory speed limit on a public road) offence on the 9th of February 2023. There are no other records since this date.

Therefore, Mr Pataki has failed to meet specific requirements as set out in Torbay Council's Taxi Policy 2022 and conditions of his licence, by virtue of having failed to inform Torbay Council of any DVLA penalty points received, and a change in circumstances.

A1.6 Mr Pataki was emailed by Shaun Rackley from Torbay Council's Licensing Department on the 20th of January 2025 to request his submission which would be put before the Regulatory Sub Committee. This document can be found at Appendix 2.

A1.7 Mr Pataki responded in writing with his mitigating circumstances. This document can be found at Appendix 3.

A1.8 The Statutory Taxi and Private Hire vehicle standards 2022, as issued by the Department for Transport state:

5.4 Fit and Proper Test

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:

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.

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

Relevant excerpts of Torbay Councils Taxi policy state:

5. Drivers

General Licensing Requirements

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

- vi) They have a satisfactory driving history, as verified through the DVLA and in accordance with the Convictions Policy at Appendix A*
- vii) They are considered 'fit and proper' by the Licensing Authority, taking account*

of any other relevant information as may be requested and considered appropriate by the Licensing Authority.

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 United Kingdom (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).*

7.6 The Licensing Authority will have regard to fixed penalties when considering if an Applicant is a fit and proper person or if it will impact on the continuance of an existing licence holder.

APPENDIX A: Taxi and PHV Licensing Criminal Convictions' Policy

1 General Policy

1.1 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:

'Would you (as a member of the licensing committee or other person charged with the ability to grant a licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?'

(Paragraph 10.21 Button on Taxis – Licensing Law and Practice; Fourth Edition; Ed Bloomsbury Professional)

If the answer to this question is an unqualified 'yes' then a licence should normally be approved. If there are any doubts in the minds of those who make the decision, then the licence must be refused, suspended or revoked. It is the responsibility of the Applicant or existing licence holder to satisfy the Licensing Authority they are a 'fit and proper' person.

1.6 The Licensing Authority will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an Applicant or licence holder, the Licensing Authority will take into consideration the following factors:

- Criminality
- Number of endorsed DVLA driving penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
- The previous licensing history of existing/former licence holders

1.7 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.

1.10 In this Policy, the word “conviction” is to be defined as including convictions, cautions, warnings, reprimands, endorsable fixed penalties and other relevant information.

8 Major traffic offences

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

A1.9 Mr Tamas Pataki has been invited to attend this Regulatory Sub-Committee, in order that the matters contained within this report may be considered. He has also been advised that should he fail to attend, then Members may resolve to hear and make a determination based solely on the content of the report in his absence.

A1.10 There is a right of Appeal to the Magistrates’ Court as provided under section 61 (3) of the 1976 Act against the Regulatory 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

Outline of significant key risks

A2.1 There are no significant risks, as no preferred option is indicated by the author of the report.

A3. Options

A3.1 The options are:

- (i) To take no further action, if satisfied that Mr Tamas Pataki remains a ‘fit and proper’ person to drive a Hackney Carriage or Private Hire vehicle
- (ii) To give a written warning. Where this happens, the warning remains on file and can be referred to at future disciplinary hearings. A warning will usually remain relevant to the consideration of whether a licensed driver is a ‘fit and proper’ person for a rolling period of three years.
- (iii) Ask an existing licensed driver to successfully undertake competence assessments or re-training where the skill-base or health of the licensed driver is not to the required standard, within a defined period. For example, requiring driving lessons, completing relevant training, further medical examination or assessment, at their own expense. Should the driver fail to successfully complete additional requirements within the prescribed period the Council may consider further action.
- (iv) To suspend Mr Tamas Pataki’s licence to drive a Hackney Carriage

or Private Hire vehicle. Licences can be suspended as punishment or pending further training or assessments being completed (amongst other things). Where it is used as a punishment, the following periods are usually imposed:

- Minor Contraventions, a 1 to 14 days suspension
 - Serious contraventions, a 14 day to 3-month suspension
- (v) To revoke Mr Tamas Pataki's drivers' licence on grounds that he is no longer considered to be a 'fit and proper' person to retain such a licence

A3.2 Each case will be considered on its own merits and in all cases, when deciding whether a licensed driver is a fit and proper person to hold or retain a licence, the Council will consider:

- a) All relevant information even where these matters may already have been considered in a previous hearing
- b) Cumulative impact of a range of relatively minor contraventions
- c) Passenger safety
- d) The maintenance of public confidence in the licensed trade
- e) Whether there are multiple offences/ contraventions/ behaviours
- f) The circumstances of each situation and any patterns
- g) Attitude of the driver

A4. Summary of resource implications

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

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

A5.1 There are no environmental sustainability issues, equalities or crime and disorder issues other than as outlined 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 Regulatory Sub-Committee to consult with the public on this matter.

A7. Are there any implications for other Business Units?

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

Documents available in members' rooms

None

Appendices

Appendix 1 DVLA record of Mr Pataki's licence (restricted)

Appendix 2 Email to Mr Pataki from Shaun Rackley (Licensing Department)
requesting mitigating circumstances – dated 20th of January 2025

Appendix 3 Letter from Mr Pataki – dated 21st of January 2025

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 2022
Institute of Licensing Suitability Guidance 2024

Document is Restricted

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From: Rackley, Shaun
Sent: 20 January 2025 14:40
To: [REDACTED]
Subject: DVLA disqualification and information required
Importance: High

Hi Tom,

I am emailing you following a DVLA licence check that has been carried out. This is part of the requirements of your Torbay Council issued licensed drivers badge.

It appears from the check that you was disqualified from driving in May 2024 for a period of 6 months. Please see the screen shot below at the bottom of this email.

After checking our records, you have failed to declare any DVLA penalty points to us since March 2023, along with the disqualification listed.

I am hereby notifying you that I require a written submission from you by no later than **1pm on the 21st of January 2025** with any mitigating circumstances about the disqualification and your reasons as to why you have failed to declare this to Torbay Councils Licensing department. Please include any letters or proof from the DVLA/solicitors if you consider there was no disqualification. This information along with your written submission will be taken into account when determining your fit and proper status as a licensed driver.

I am seeking legal advice as to whether we consider immediate revocation of your licence/s, or, for the matter to be referred to Torbay Council's Regulatory Sub-Committee for members to determine the breach in Policy and whether you remain a fit and proper person to hold a licence with Torbay Council. We will also be considering your private hire vehicle proprietor licence that you currently hold and if this should also be revoked if you are not considered a fit and proper person to hold a licence with Torbay Council.

As part of my investigation I also require **your operator records from the 1st of May 2024 until the 31st of December 2024.**

Please can you ensure you return both your written submission and the requested information by the time and date specified above.

Thanks

Shaun

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Current licence summary

Driving status
Current full licence

Endorsements
2 Offences
3 Points

i This code is now invalid and cannot be used again.

[Save or print this licence](#)

Drivers full name	Mr Famas Pataki
Date summary viewed	20 January 2025, 13:35
Driving licence number	XXXXXXXX089T99BA
Licence issue number	78
Licence valid from	24 December 2024
Licence valid to	7 September 2029
Check code	sv 6N Vy rH

Can drive

Entitlements may have additional restrictions. [Check the restriction codes for the driving licence.](#)

[Show all sections](#)



Mopeds

Category P, AM and Q

[Show](#)



Motorcycles

Category A

[Show](#)



Light vehicles and quad bikes

Category B1

[Show](#)



Cars

Category B and BE

[Show](#)



Medium-sized vehicles

Category C1 and C1E

[Show](#)



Minibuses

Category D1 and D1E

[Show](#)

Other categories

Category L, k, l and n

[Show](#)

Can provisionally drive

Entitlements may have additional restrictions. [Check the restriction codes for the driving licence.](#)

[Show all sections](#)



Motorcycles

Category A

[Show](#)

Other categories

Category G and H

[Show](#)

Penalties and disqualifications

For more information go to the [penalty points](#) and [disqualification](#) sections on GOV.UK.

[Hide all sections](#)

To signify a disqualification under 'totting up' procedure if the total penalty points reach 12 or more within 3 years, the driver is liable to be disqualified (TT99)

Disqualification period: 6 months.

[Hide](#)

Conviction date	5 December 2023
Sentencing date	29 May 2024
Endorsement removal date	5 December 2027
Court or fixed penalty office	1301 Cornwall Magistrates' Court

Exceeding statutory speed limit on a public road (SP30)

Penalty points: 3

[Hide](#)

Offence date	6 November 2023
Conviction date	31 May 2024
Sentencing date	25 November 2024
Penalty point expiry date	6 November 2026
Endorsement removal date	6 November 2027
Fine	£40.00
Court or fixed penalty office	1302 South and West Devon Magistrates' Court



Shaun Rackley | Licensing Officer |

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

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Dear Shawn,

Thank you for the E-mail. As far as your request concerning data I may hold regarding carrying passengers between certain dates I do not have any information to furnish you with.

Sadly, due to personal circumstances I have not been able to work for 2 years. I was evicted from my home of 23 years and there was more than one death in the family. This was all very traumatic and I felt unable to work.

I have ~~kept~~ kept my badges up-to-date in the hope of returning to work in the not too distant future - a job I have always enjoyed.

Hope this helps.



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