



Wednesday, 3 September 2014

## **LICENSING SUB-COMMITTEE**

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

**Thursday, 11 September 2014**

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 Addis

Councillor Pentney

Councillor Brooksbank

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**Working for a healthy, prosperous and happy Bay**

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

**Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207026**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

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

# LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**  
To elect a Chairman/woman for the meeting.
2. **Apologies**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 1 - 6)  
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 14 August 2014.
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. **Licensing Act 2003 - An application for a Premises Licence in respect of Pelican Cafe, Pelican Cafe, 61 Roundham Road, Paignton TQ4 6DS** (Pages 7 - 27)  
To consider an application for a Premises Licence in respect of Pelican Cafe, 61 Roundham Road, Paignton TQ4 6DS.
7. **Conviction of Torbay Council Licensed Driver of Fraud** (Pages 28 - 38)  
To consider a report on the above.

**8. Exclusion of the Press and Public**

To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.

**9. Taxi Driver Report**

To consider an Exempt Report.

(To Follow)

# Agenda Item 3



## Minutes of the Licensing Sub-Committee

14 August 2014

-: Present :-

Councillors Addis, Brooksbank and Doggett

(Also in attendance: Councillors Excell and Pountney)

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### 7. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

### 8. Minutes

The Minutes of the meeting of the Sub-Committee held on 17 July 2014 were confirmed as a correct record and signed by the Chairman.

### 9. Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG

Members considered a report on an application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG.

The Premises do fall not within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation in relation to Licensing Objective 'The Prevention of Crime and Disorder' and 'The Protection of Children from Harm.'	15 July 2014
Public Protection	Representation in relation to Licensing Objective 'The Prevention of Public Nuisance.'	22 July 2014

Interested Parties	16 Representations in relation to Licensing Objectives 'The Prevention of Crime and Disorder,' 'The Prevention of Public Nuisance' and 'Public Safety.' One Representation was in the form of a petition with 38 signatures and the other 15 Representations have a total of 20 signatures. It is important to note that 6 Interested parties who sent individual Representations have also signed the petition with the 38 signatures.	Various dates
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Members noted that there had been no additional Representations received from any other Responsible Authority.

Oral Representation received from:

Name	Details
The Applicant's Legal Representative	The Applicant's Legal Representative outlined the application, as set out in the submitted documents and responded to Members questions.
Police	The Police outlined their objection, as set out in the submitted documents, outlined proposed conditions and responded to Members questions.
Interested Parties	The Interested Parties who had returned their Notices to attend, outlined their objections, as set out in the submitted documents and responded to Members questions.

**Additional Information:**

Members noted that 13 notices from Interested Parties had been received confirming they were not attending, but were aware that the Committee hearing was taking place and that a further 2 notices were returned stating they were not attending but enclosed an additional letter for the attention of the Committee. Members noted the additional letter was from 2 Interested Parties who had signed

the submitted petition and after consultation with the Senior Solicitor was not circulated to Members.

Members noted that the Police had proposed 11 conditions, as per Appendix 3 of the submitted report. The Applicant's Solicitor, with permission, circulated 11 updated conditions which the Police Licensing Officer confirmed had been agreed.

1. The sale and supply of alcohol between 12 midnight to 05:00, shall be restricted to service by staff through the serving hatch at the front of the premises.
2. No persons other than management, their staff, site service providers and members of the emergency services shall be allowed access to the premises, other than the forecourt between 12 midnight to 05:00.
3. All spirits shall be located behind the counter and shall be sold by counter service only.
4. Alcohol displays within the premises shall be located so that staff can view these displays at all times.
5. There shall be no alcohol displays within 2 metres of the store entrance.
6. There will be no sales or supply of beers, ales, lager, bitter or cider with an ABV of more than 6%.
7. No single cans of alcohol shall be sold from the premises.
8. The Premises Licence Holder or Designated Premises Supervisor shall ensure that a Refusals Register is maintained to include details of all alcohol sales that are refused and the reason for refusal. The register shall be retained for a period of 12 months and will be made available to the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.
9. Challenge 25 Posters shall be displayed in prominent positions within the premises and adjacent to the service hatch.
10. An Incident Book shall be maintained to record details of the dates, times and details of any incidents occurring on the premises. This Incident Book shall be retained for a period of 12 months and will be made available for inspection at any reasonable time by the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.
11. The Premises Licence Holder or Designated Premises Supervisor shall ensure that all members of staff employed in the sale of alcohol shall receive appropriate training, and regular refreshment training, with regards to the Challenge 25 Policy, the identification of persons who are drunk and refusing service. A record of such training will be maintained and kept on the premises for a period of 12 months and shall be available for inspection at any reasonable time by the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.

Members were advised by the Interested Parties of historical and on-going problems with Public Nuisance, Crime and Disorder and Public Safety on and around the premises which is in close proximity to a high density of residential premises and noted in the supporting evidence of the Representations both orally and written that there was a consistent focus for disorder and disturbance.

**Decision:**

That the application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG be granted to permit the sale of alcohol for consumption off the premises between the hours of 8am and 12 midnight, subject to conditions 3-11, as proposed by the Police and agreed by the Applicant. That late night refreshment be permitted, as applied for but restricted to hot drinks only, as proposed by the Applicant. That structural change be permitted, as proposed by the Applicant in their application.

**Reason for Decision:**

Having carefully considered all the written and oral Representations, Members resolved to grant a Variation to the Premises Licence but limited the terminal hour for the sale of alcohol for consumption off the premises to midnight for the following reasons:

In accordance with section 4.4 of the Council's Licensing Statement of Principles 2011, Members resolved that it was appropriate on the evidence before them in respect of anti-social behaviour, noise nuisance and concerns of street drinking, to limit the hours for the sale of alcohol for consumption off the premises, as the premise is situated in close proximity to residential premises and a number of commercial premises which provide seasonal accommodation.

Members noted the written submission by the Public Protection Officer, in that their department had in the last ten years only received one complaint about noise and rubbish in 2007. However on hearing oral evidence from the Interested Parties present, two of which lived directly opposite the premise and two who represented residents and Interested Parties that live in the direct vicinity, Members were satisfied that an historic and on-going noise nuisance was emanating from this premise, even though it has not been formally reported to that Responsible Authority. In coming to this view, Members also had regard to that submitted by other Interested Parties in their written representations

In respect of the oral and written representation of the Police, Members noted the Neighbourhood Inspector's concerns regarding street drinking in the area and the concerns of this issue raised by Interested Parties. Whilst Members considered that the conditions put forward by the Police and agreed by the Applicant may go some way to alleviate these concerns, Members were not satisfied that by granting a 24 hour licence to a premises in this area to sell alcohol for consumption off the premises that this would not increase the risk of this concern worsening.

In respect of the Police's oral submissions with regards to Police logs relating to the premises, Members resolved that this did not represent a true reflection of the problems being experienced by residents and Interested Parties. This was evident from the oral evidence of the Interested Parties present who submitted that they called the Police routinely, one of which said that he had called the Police ten times over a six month period but no one came out. Another said that they also

called the Police but by the time they arrived, the incidents were either over or the person(s) responsible had left premises.

In consideration of the written and oral representations of the Interested Parties, Members could not be satisfied that the Premises Licence Holder was addressing incidents of concern at their premises and by granting the variation as applied for, Members resolved that there would be a real risk that these incidents may increase, as this premise would be the only premise open with a 24 hr licence in Torquay. This is coupled with the fact that the service at this premise is manned at night by a single member of staff via a night hatch which Members viewed as wholly unsatisfactory when being asked to grant a 24hr license to sell alcohol from a premise in a residential area, albeit for consumption off the premises. The risk to this member of staff if they sought to challenge customers, who behaved in a way which undermined the Licensing Objectives, is likely to result in behaviours being unchallenged. This is evident from ongoing incidents of concern at the premises.

Members noted that the road in which the premise is situated is a main thoroughfare for cars and pedestrians and in doing so, carefully considered all of the written and oral representations and disregarded that said or written which could not be attributed to this premise.

In light of the evidence before them, Members resolved that to increase the sale of alcohol for consumption off the premises by a further 9 hours plus would add to anti-social behaviour and noise nuisance currently being experienced and would undermine the Licensing Objectives in respect of The Prevention of Public Nuisance and the Prevention of Crime and Disorder

In concluding, Members considered what if any conditions could be added to the licence to allow for the variation to be granted, as applied for without the Licensing Objectives being undermined. However they resolved after careful consideration that there were none, due to the type of the premises and the way in which it was staffed.

#### **10. Conviction of Torbay Council Licensed Driver of Fraud**

Members considered a report concerning a Torbay Council Licensed Driver and whether she remained a 'fit and proper person' to hold a Torbay Council Driver's Licence.

Members noted that they had received circulated late papers which were a letter from the respondent and character references in support of her case.

Decision:

To issue a warning in respect of the conviction and failure to notify the Local Authority of this conviction and this that Mrs Daulby seeks assistance in addressing her financial difficulties and that no further offending occurs during the duration of her Licence.



Reason for Decision:

Having carefully considered all the written and oral representations, Members are satisfied on the evidence before them that there is no risk to Public Safety.

Whilst Members had regard to the seriousness of the offence and that within the Policy, Members noted there were no previous concerns and by keeping her licence, this will allow her to make reparations to the public purse.

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Chairman/woman

# Agenda Item 6



Briefing Report  
No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a New Premises Licence in respect of Pelican Cafe, 61 Roundham Road, Paignton TQ4 6DS

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub Committee**

**11<sup>th</sup> September 14**

Contact Officer: **Steve Cox**

☎ Telephone: **01803 208025**

✉ E.mail: **Licensing@torbay.gov.uk**

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## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above, for a new Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder” and the “Prevention of Public Nuisance”.
- 1.4 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made, having considered the Representations, either:-
  - (a) to grant the licence subject to
    - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
    - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the Premises Supervisor;
  - (d) to reject the application.
- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant and Interested Party following the determination of the matter.

## 2. Introduction

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premises detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:

The Sale of Alcohol on and off the premises from 0830 until 2345 Monday to Sunday.

The provision of Late Night Refreshment indoors from 2300 until 0030 Monday to Sunday.

To be open to the public from 0730 until 0030 Monday to Sunday.

A copy of the plan of the Premises is shown as Appendix 2 and 3.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as a relevant Representation has been received. The Licensing Authority is also satisfied that the Representation has been received within the appropriate time scale, has not been subsequently withdrawn and is not vexatious or frivolous.

We have received a representation from the Police in relation to the Licensing Objective "The Prevention of Crime and Disorder". This is shown as Appendix 4.

We have received a representation from a member of the public in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown as Appendix 5.

There have been no additional Representations received from any other Responsible Authority or any Interested Party.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
- (a) The holder of the licence against any decision
    - (i) to impose conditions on the licence, or
    - (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
  - (b) Any person who made a relevant Representation who desires to contend
    - (i) that the licence ought not to have been granted, or

- (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.

- 2.7 Following such Appeal, the Magistrates' Court may:-
- (a) dismiss the appeal,
  - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
  - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such order as to costs as it thinks fit.

**Frances Hughes**  
**Executive Head Community Safety**

### **Appendices**

- Appendix 1 Details of the application.
- Appendix 2 Plan of Premises Part 1.
- Appendix 3 Plan of Premises Part 2.
- Appendix 4 Representation from the Police.
- Appendix 5 Representation from an Interested Party.

### **Documents available in Members' rooms**

None

### **Background Papers:**

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

Torbay Council Licensing Policy 2011.



FORM B

TORBAY COUNCIL
22 JUL 2014
COMMUNITY SAFETY

**LICENSING ACT 2003**  
**APPLICATION**  
**FOR THE GRANT OF A**  
**PREMISES LICENCE**

**NOTIFICATION**

*Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.*

*Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.*

*You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, [www.torbay.gov.uk](http://www.torbay.gov.uk)*

**Completed forms should be returned to:**

**Principal Safety & Licensing Officer**  
**Torbay Council**  
**Community Safety**  
**C/O Torquay Town Hall**  
**Castle Circus**  
**Torquay**  
**TQ1 2DR**

**Contact Details:**

**Tel: 01803 20 8025**

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

**Email: [licensing@torbay.gov.uk](mailto:licensing@torbay.gov.uk)**





Application for a Premises Licence to be granted  
under the Licensing Act 2003

FORM B

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Judith Falck

*(Insert name(s) of applicant)*

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Pelican Cafe, 61 Roundham Road			
Post town	Paignton	Post code	TQ4 6DS

Telephone number at premises (if any)	01803 554983
Non-domestic rateable value of premises	£5600

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as  
Please tick yes

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
  - i. as a limited company  please complete section (B)
  - ii. as a partnership  please complete section (B)
  - iii. as an unincorporated association or  please complete section (B)
  - iv. other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)

- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
  - statutory function or
  - a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input checked="" type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b> Falck			<b>First names</b> Judith		
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes	
<b>Current postal address if different from premises address</b>					
<b>Post Town</b>				<b>Postcode</b>	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	

Current postal address if different from premises address			
Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

**Part 3 Operating Schedule**

When do you want the premises licence to start?

Day		Month		Year	
A	S	A	P		

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day		Month		Year	



Please give a general description of the premises (please read guidance note 1)  
Takeaway and Eat in, Single storey Cafe premises with seating inside and outside on the pavement directly in front of the premises. Cafe has two toilets inside the premises.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

**Provision of regulated entertainment**

**Please tick yes**

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of entertainment facilities:**

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

**Provision of late night refreshment** (if ticking yes, fill in box L)

**Supply of alcohol** (if ticking yes, fill in box M)

**In all cases complete boxes N, O and P**

**A**

<b>Plays</b> Standard days and timings (please read guidance note 6)			<b><u>Will the performance of a play take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon					
Tue					
			<b><u>State any seasonal variations for performing plays</u></b> (please read guidance note 4)		
Wed					
Thur					
			<b><u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Fri					
Sat					
Sun					

L

<b>Late night refreshment</b> Standard days and timings (please read guidance note 6)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 3) Takeaway Food and seating inside if customers wish to sit in.					
Mon	23:00	00:30						
Tue	23:00	00:30						
Wed	23:00	00:30				<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 4)		
Thur	23:00	00:30						
Fri	23:00	00:30	<b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 5)					
Sat	23:00	00:30						
Sun	23:00	00:30						

**M**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption (Please tick box)</b> (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)		
Mon	08:30	23:45			
Tue	08:30	23:45			
Wed	08:30	23:45			
Thur	08:30	23:45			
Fri	08:30	23:45			
Sat	08:30	23:45			
Sun	08:30	23:45			

**State the name and details of the individual whom you wish to specify on the licence as premises supervisor**

<b>Name</b> Mrs Judith Falck	
<b>Address</b> Pelican Cafe, 61 Roundham Road, Paignton, Devon,	
<b>Postcode</b>	TQ4 6DS
<b>Personal Licence number (if known)</b> PA0720	
<b>Issuing licensing authority (if known)</b> Torbay	

**N**

**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)**  
 None

**O**

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon	07:30	00:30	<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 5)
Tue	07:30	00:30	
Wed	07:30	00:30	
Thur	07:30	00:30	
Fri	07:30	00:30	
Sat	07:30	00:30	
Sun	07:30	00:30	

**P** Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)**

All staff will be trained in checking and verifying age identification information. If there is any doubt as to the authenticity of the document or the identity of the bearer of the identification, then the sale will be immediately refused as will any attempt for anyone over 18 years of age to buy for someone under 18 years of age. No alcohol will be supplied to anyone who is deemed to be already intoxicated. Soft drinks and low alcohol drinks will be available at all times.

**b) The prevention of crime and disorder**

CCTV with instant playback and 14 day recording is installed in all areas of the premises. No alcohol will be supplied to anyone who appears to be under the influence of drink or drugs. All alcohol supplied for consumption on the premises will be in toughened glasses. This will include the seating area outside. Alcohol for consumption off the premises will be supplied without being opened and in original containers. No cigarettes sales shall take place on the premises. Security lighting is provided at the front and rear of the premises for extra safety. No cash is left on the premises and all cash drawers are left empty and open. Street CCTV is in operation directly opposite the premises.

**c) Public safety**

A first aid kit and accident book are present on the premises. All interior and exterior lighting shall be on at all times the premises are open. The emergency lighting shall be tested on a regular basis and the results recorded. It shall be maintained at all times. Fire equipment is on hand on the premises. The public area is carpeted and also fitted with safety flooring. Emergency exits are clearly identified.

**d) The prevention of public nuisance**

All refuse will be placed in suitable receptacles outside the premises and at a time such that they will not be a nuisance to adjacent properties. The bin will be fitted with a close fitting lockable lid to ensure no litter can be blown around. No collections of rubbish will take place after 23:00. No deliveries will take place after 23:00. Information of a local taxi firm is available on the premises at all times.

**e) The protection of children from harm**

No alcohol will be supplied to any person who is or suspected to be under the age of 18 years. No alcohol will be supplied to any person over the age of 18 years who will or will likely supply any person under the age of 18 years. In all cases, if there is any doubt as to the authenticity of the identification provided, the sale will be refused, as will any sale to any person who appears to be intoxicated from drink or drugs. There are no cigarette sales on the premises. Soft drinks will be available at all times.


Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 4 – Signatures** (please read guidance note 10)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	21 <sup>st</sup> July 2014.
Capacity	Owner

**For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent.** (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

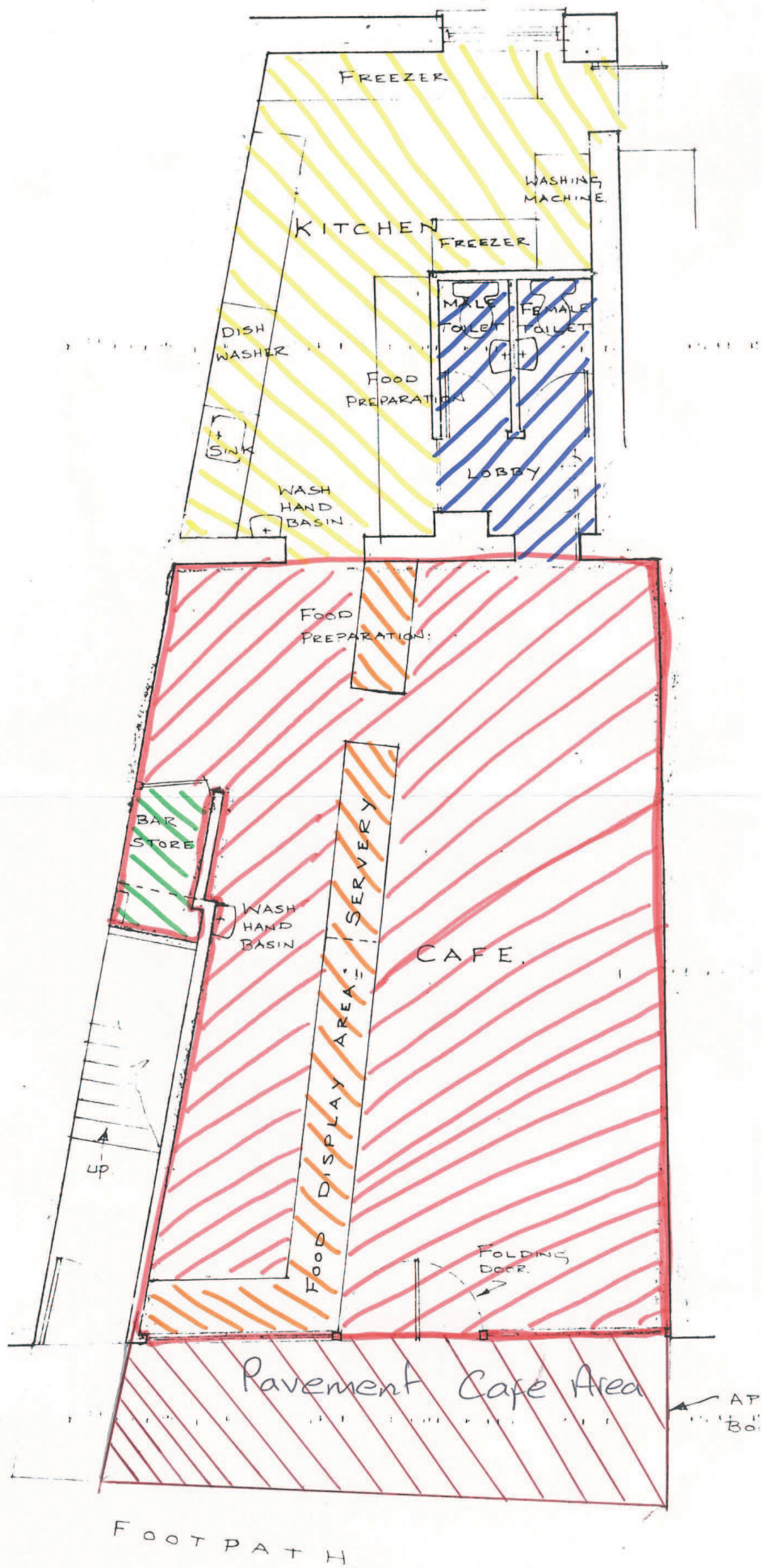
<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)</b>			
<b>Post town</b>		<b>Post code</b>	
<b>Telephone number (if any)</b>			
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>			

### Notes for Guidance

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or un-amplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.



# Agenda Item 6 Appendix 2



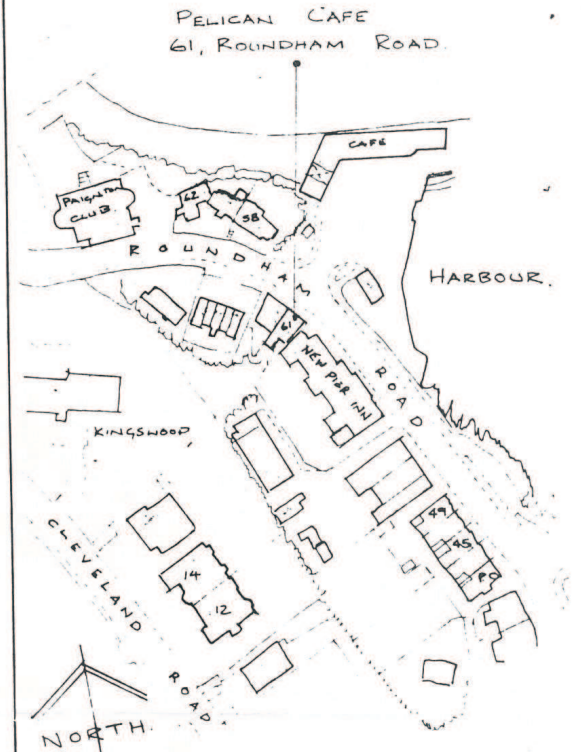
GROUND FLOOR PLAN  
SCALE 1:50

# Agenda Item 6

## Appendix 3

FIRE PRECAUTIONS :-  
TO ACCORD WITH RECOMMENDATIONS OF  
THE LICENSING AUTHORITY

⊕ EMERGENCY LIGHT TO B.S 5266:1988



LOCATION PLAN  
SCALE 1:1250



LICENSED AREA



TOILETS



KITCHEN



BAR COUNTER / SERVERY



BAR STORE

APPROXIMATE  
BOUNDARY LINE

### LICENSING DRAWING

PELICAN CAFE  
61, ROUNDHAM ROAD,  
PAIGNTON.

MR AND MRS P. FALCK

### GROUND FLOOR PLAN

ALL DRAWINGS COPY RIGHT SPECIAL REFERENCE IS MADE TO R.I.B.A. CONDITIONS OF ENGAGEMENT 3.15, 3.16, & 3.17 WHICH APPLY IN FULL THIS DRAWING MAY NOT BE REPRODUCED IN ANY FORM ALL SIZES TO BE CHECKED AND VERIFIED ON SITE SCALE IN DIMENSIONS FOUNDATION DETAIL FOR GUIDANCE ONLY SUBJECT TO SOIL CONDITIONS & ENGINEERS DETAILS ANY BOUNDARY CONSENTS MUST BE SOUGHT FROM ADJOINING OWNERS

APRIL 2001 DWG NO 20116/1  
SCALE 1:50

**RODNEY AND STUART HOWES PARTNERSHIP**  
Chartered Architects

97 Torquay Road  
Paignton  
Devon  
TQ3 2SE.

tel / fax : 01803 : 522578





DEVON & CORNWALL  
CONSTABULARY

Licensing Team  
Torbay Council  
C/O Torquay Town Hall  
Castle Circus  
TORQUAY  
TQ1 3DR

Licensing Department East  
Devon and Cornwall Constabulary  
Force Headquarters  
EXETER  
EX2 7HQ

Telephone: 01803 218900

13 August 2014

Dear Sir/Madam  
**Pelican Cafe, 61 Roundham Lane, Paignton, TQ4 6DS**

I refer to an application to for the Grant of a Premises Licence in respect of the above named premises, submitted by the applicant, Mrs Judith Falck.

My Police Licensing Officer, Mrs Julie Smart, has visited the premises and discussed the application with Mrs Falck. As a result of those discussions, the police request that the below conditions are imposed on the licence:

1. A CCTV system shall be installed at the premises to the satisfaction of the police, and must operate at all times the premises are open to the public. All recordings must be kept for a minimum of 14 days, during which time the police shall have access and be provided with downloaded images at any reasonable time.
2. Food shall be available at all times the premises are open to the public.
3. The consumption of alcohol shall be restricted to persons who are seated.
4. The consumption of alcohol in the Pavement Cafe Permit area shall be restricted to the times indicated within the Permit and in compliance with all the terms and conditions specified therein.
5. The premises shall operate a Challenge 25 Policy whereby any person who appears under the age of 25 will be required to produce an approved form of identification.

[licensingeast@devonandcornwall.pnn.police.uk](mailto:licensingeast@devonandcornwall.pnn.police.uk)



For your information, Mrs Falck has indicated that these conditions are acceptable to her.

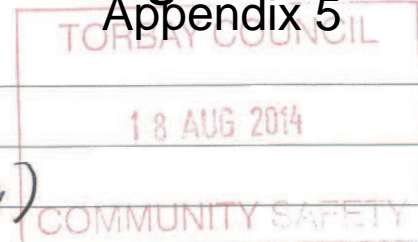
Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully

A handwritten signature in black ink, appearing to be 'G Mayhew', written over a horizontal line.

Superintendent G Mayhew  
LPA Commander





OBJECTIONS FOR APPLICATION  
FOR ALCOHOL (SELLING)

16 August 2014

Dear Sirs,

We object for the Application of  
the Pelican Cafe in Rounham Rd. for  
Selling Alcohol from Morning 10.30 am. to  
12.30 AM LATE EVENING,  
FOR THE FOLLOWING REASONS:

① WE LIVE ABOVE OUR BEACH SHOP WHICH  
IS NEXT DOOR TO THE PELICAN CAFE.

WE FEEL LIVING SO CLOSE WE WILL GET ALL  
THE NOISE, AND LOUD TALKING ALL HOURS  
AS THEY HAVE TABLET CHAIRS OUTSIDE.

WE GO TO BED EARLY AS WE ARE UP AT 6 AM  
TO GET OUR BUSINESS READY FOR TRADE

WE FEEL WE WILL BE AFFECTED BY EXCESSIVE  
NOISE, AND COME AS STRESS.

We are a family run Business our Shop  
is a beach shop which we have lots  
of children coming in & out for the beach  
toys and crab lines & parents see drinking  
going on may effect our trade and they  
go elsewhere. Harbour having a hard  
time as it is the owners don't live  
on the Premises. They rent out the flat

Above police's Cafe. So it not going to  
affect them. They can go home to Brigham.  
Feel very strong about this, and hope  
that you will understand.

Thanking you

yours. Sincerely  
◀



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

Title: **Conviction of Torbay Council Licensed Driver's of False representation to obtain benefits**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **11<sup>th</sup> September 2014**

Key Decision: **No**

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

Contact Officer: **Steve Cox**  
Telephone: **01803 208034**  
E.mail: [Steve.cox@torbay.gov.uk](mailto:Steve.cox@torbay.gov.uk)

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## 1. What we are trying to achieve

- 1.1 This report concerns a Torbay Council Licensed Driver who has pleaded guilty and been convicted of making false representation in receiving £6,224.02 of benefits whilst working as a part time taxi driver, contrary to Sections 112(1B) of the Social Security Administration Act 1992 and Regulation 88 of the Housing Benefit Regulations 2006. This report is addressing whether the licensed driver remains a 'fit and proper person' to hold a Torbay Council Driver's Licence.

## 2. Recommendation(s) for decision

- 2.1 There is no recommendation.

## 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 Sections 51 and 59 Local Government (Miscellaneous Provisions) Act 1976 respectively 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'.
- 3.3 Torbay Council's Licensing Team is in receipt of information from the its Legal Department that on the 23<sup>rd</sup> July 2014, Mr Peter Dawe-Smith had pleaded guilty to an offence under Section 112(1B) of the Social Security Administration Act 1992 and Regulation 88 of the Housing Benefit Regulations 2006 after failing to

notify Torbay Council of a change in circumstances, which resulted in receiving £6,224.02 of benefits whilst working as a part time taxi driver. See Appendix one.

- 3.4 On the 5<sup>th</sup> August 2014 Mr Peter Dawe-Smith was informed by letter which stated that the matter was likely to be heard at a Licensing Sub-Committee hearing and whether he wished to submit anything to be included within the committee report. This was in relation to both the offence and in relation to not advising Torbay Council of that conviction within 7 days, contrary to Torbay Council's Hackney Carriage and Private Hire Policy. The letter was hand delivered to his home address. See Appendix Two.
- 3.5 On the 22<sup>nd</sup> August 2014 Torbay Council received a letter from Mr Peter Dawe-Smith to include within this committee report. See Appendix 3.
- 3.6 Fraud including benefit fraud is defined as dishonesty within Torbay Council's Hackney Carriage and Private Hire Policy, and the 'Licensing Authority may refuse to renew, suspend or revoke the licence' upon conviction.

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

**Frances Hughes** Executive Head Community Safety



## Supporting information to Report XX/2010

### 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 Sections 51 and 59 Local Government (Miscellaneous Provisions) Act 1976 respectively 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 Section 61 Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—
- (a) that he has since the grant of the licence—
    - (i) been convicted of an offence involving dishonesty, indecency or violence; or
    - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
  - (b) any other reasonable cause.
- A1.4 Torbay Council's Licensing Team is in receipt of information from its Legal Department that on the 23<sup>rd</sup> July 2014, Mr Peter Dawe-Smith had pleaded guilty to an offence under Section 112(1B) of the Social Security Administration Act 1992 and Regulation 88 of the Housing Benefit Regulations 2006 after failing to notify Torbay Council of a change in circumstances, which resulted in receiving £6,224.02 of benefits whilst working as a part time taxi driver. See Appendix one.
- A1.5 On the 5<sup>th</sup> August 2014 Mr Peter Dawe-Smith was informed by letter which stated that the matter was likely to be heard at a Licensing Sub-Committee hearing and whether he wished to submit anything to be included within the committee report. This was in relation to both the offence and in relation to not advising Torbay Council of that conviction within 7 days, contrary to Torbay Council's Hackney Carriage and Private Hire Policy. The letter was hand delivered to his home address. See Appendix Two.
- A1.6 On the 22<sup>nd</sup> August 2014 Torbay Council received a letter from Mr Peter Dawe-Smith to include within this committee report. See Appendix 3.
- A1.7 Section 2.2 of Appendix One of Torbay Council's Hackney Carriage and Private Hire Policy says

*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.*

Dishonesty is defined in Section 2.3 as

*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*

A1.8 Section 9.3 of Appendix One of Torbay Council's Hackney Carriage and Private Hire Policy says

*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.*

A1.9 Torbay Council's Hackney Carriage & Private Hire Licensing Policy says

**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.*

A1.10 Mr Peter Dawe-Smith has been a Torbay Council licensed driver for 12 years, and there is no record of any previous complaints or incidents.

A1.11 There is no recommendation.

A1.12 There is a right of Appeal against the Licensing Sub-Committees decision to the Magistrates' Court 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 Having pleaded guilty, Mr Peter Dawe-Smith has been convicted of an offence of fraud on the public purse. If Mr Peter Dawe-Smith retains his Torbay Council issued Drivers Licence, there may be as a result of this conviction, a risk in undermining public confidence in Torbay Council as a taxi licensing authority and in its Policy.

A2.1.2 If Mr Peter Dawe-Smith's Torbay Council issued Drivers Licence is suspended or revoked then there is a risk of this decision being appealed.

## **A3. Options**

A3.1 The options are:

- (i) to suspend Mr Peter Dawe-Smith's Torbay Council Driver's Licence, without immediate effect;
- (ii) to suspend Mr Peter Dawe-Smith's Torbay Council Driver's Licence, with immediate effect;
- (iii) to revoke Mr Peter Dawe-Smith's Torbay Council Driver's Licence without immediate effect;
- (iv) to revoke Mr Peter Dawe-Smith's Torbay Council Driver's Licence with immediate effect
- (v) to issue Mr Peter Dawe-Smith with a warning
- (vi) to do nothing.

## **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 equalities or environmental sustainability issues. However, should Mr Peter Dawe-Smith continue to work as a Torbay Council Licensed Driver, there is a potential crime and disorder risk, due to his current and recent conviction.

**A6. Consultation and Customer Focus**

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

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

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

**Annexes**

Appendix 1 Email from Mark Maries dated 28<sup>th</sup> July 2014.

Appendix 2 Letter to Mr Peter Dawe-Smith dated 5<sup>th</sup> August 2014

Appendix 3 Letter from Mr Peter Dawe-Smith received 22<sup>nd</sup> August 2014

**Documents available in Members' rooms**

None

**Background Papers:**

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

None

**From:** Cox, Steve  
**Sent:** 28 August 2014 11:20  
**To:** Cox, Steve  
**Subject:** FW: UNCLASSIFIED: Housing Benefit Prosecution - Defendant Part-time taxi driver

**Sensitivity:** Confidential

**From:** Maries, Mark  
**Sent:** 28 July 2014 13:02  
**To:** Noble, Craig; Rackley, Shaun  
**Cc:** Cox, Steve  
**Subject:** UNCLASSIFIED: Housing Benefit Prosecution - Defendant Part-time taxi driver  
**Importance:** High  
**Sensitivity:** Confidential

Dear Craig and Shaun,

I am prosecuting a Peter Dawe-Smith of (*address removed*), who says he is a part-time taxi driver. He is being prosecuted for a HB fraud offence, and pleaded guilty on **Wednesday 23 July** to a housing benefit offence and will be sentenced on **Wednesday 30 July**. Whilst the HB claim is a joint claim his wife is the main claimant, and accordingly that is why the offence is framed the way that it is in that he is being prosecuted that between 1 November 2010 and 6 February 2013 in Torbay, Devon he caused or allowed his partner, (*name removed*), to fail to give prompt notification in writing to Torbay Council, as required, of changes in circumstances that he knew would affect her entitlement to Housing and Council Tax Benefit, namely that she was employed as a nursery nurse.

**CONTRARY to** Section 112(1B) of the Social Security Administration Act 1992 and Regulation 88 of the Housing Benefit Regulations 2006.

It is accepted by the Council in this prosecution, that his wife did not have anything to do with the failure to notify, as Mr Dawe-Smith takes full responsibility for filling in all the HB forms and generally dealing with the family finances. The total amount of the HB and CT overpayment attributed to this fraud is £6,224.02.

Kind Regards,

*Mark*

Mark Maries  
Senior Lawyer (Licensing, Litigation & Insurance)  
Legal Services

Tel. 01803 (20)7165  
Fax. 01803 (20)7179  
Email. [Mark.Maries@torbay.gov.uk](mailto:Mark.Maries@torbay.gov.uk)

Address. Torbay Council, Town Hall, Castle Circus, TORQUAY TQ1 3DR  
DX No. 59006 TORQUAY 1

**Confidentiality Notice:**

*This email and any attachments are intended solely for the use of the intended recipient(s) and may contain*

*confidential information and/or may be legally privileged. If you have received this email in error, please notify the sender immediately and delete this email.*



Please reply to: Mr Steve Cox

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

---

Mr Peter Dawe-Smith  
(Address removed)

---

**My ref:** R:207922/SJC  
**Your ref:**  
**Telephone:** 01803 208025  
**Website:**  
**Date:** 5 August 2014

---

Dear Mr Dawe-Smith

**Re: Prosecution for Benefit Fraud**

It has been brought to my attention that you have recently pleaded guilty to £6,224.02 of Housing Benefit and Council Tax fraud. This conviction fits within the criteria covered by Appendix A, Section 2: Dishonesty of Torbay Council's Hackney Carriage and Private Hire Policy (May 2013). This can be found on page 27. You have also not complied with condition 6.4 on page 13 of that same policy. That is to inform the Local Authority of that conviction within 5 working days.

I therefore have the duty to refer the matter to Licensing Sub-Committee for their consideration. This will result in a hearing, which I currently anticipate taking place during the morning of Thursday 11<sup>th</sup> September 2014 at the Meadfoot Room, Town Hall, Castle Circus, Torquay, TQ1 3DR.

The purpose of writing is to give you an opportunity to include any information in that committee report so the Committee can consider it before the hearing. This is not a re-hearing of the court case, but an opportunity for you to present any mitigating or other information regarding this matter. If you can let me have this information by Friday 22<sup>nd</sup> August 2014.

I recommend that you make yourself available for that morning so you have the opportunity to speak and answer any questions, but I will confirm the exact time of the hearing and send you the committee report. You are entitled to be represented, should you wish to be.

If you cannot make that date or wish to discuss anything with me then please contact me, though please note I am away from the office between 14<sup>th</sup> and 25<sup>th</sup> August 2014. Otherwise speak with Craig Noble.

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

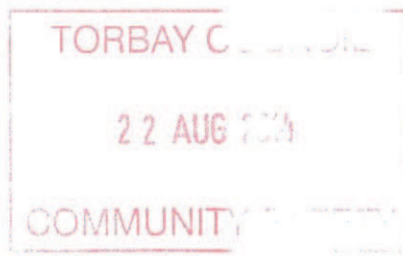
Yours sincerely

Mr Steve Cox  
Environmental Health Manager Commercial  
Licensing and Public Protection

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



Delivered  
by hand



207922  
Agenda Item 7  
Appendix 3

Mr S Cox  
Torbay Council

Mr S Cox

Please let me start by apologising that I did not inform you of my conviction within the five working days, as stated within the licensing handbook, I incorrectly believed that the five working days would have been from the date I was sentenced.

As you know, I was prosecuted for “ FAILING TO GIVE PROMPT NOTIFICATION OF CHANGE OF CIRCUMSTANCES RE ENTITLEMENT TO BENEFIT” Please note that this conviction did NOT include “Dishonesty”. I pleaded guilty to this offence, at the earliest point, because there was no dishonesty within the conviction, and was down to myself not reading and filling the form in correctly. In the period of the offence, I was working as a taxi driver, working the night shifts, my wife had just returned to work, 8am till 4pm, after maternity leave. I was working the nights, 6pm till approx 4am, then looking after the baby from 7am as well as taking my eldest to and from school. I would do any required paperwork and housework, I would then get an hours sleep before going to work, so I found it very hard to concentrate on anything that required more than 30 seconds of concentration!

I am not making excuses for my mistake, just trying to explain what was happening in my life at the time I made the mistake. I fully regret that I did not make more time to make sure that all the paperwork was correctly filled out before returning it to the benefits department.

I have been a licensed taxi driver in Torbay for approximately twelve years now, I have never been in trouble within this period, either personally, or with licensing. I have had a very good relationship with licensing, and I am sure Mr C Noble and Mr S Rackley can confirm this. I am still working as a taxi driver, although now only use the taxi when needed. This is due to working for a minibus company now as well, driving a 16 seated minibus for Torbay Minibuses, Mr Darren Watts. Mr Watts has known me for approximately ten years, and I have been working for Mr Watts for approximately nine months. Mr Watts knows what has been going on and has stood by me all the way, helping to cover my runs etc so I can attend solicitor appointments etc.

I hope that you can see this was a simple mistake of rushing paperwork and not correctly filling it in, rather than an intentional attempt to defraud the benefit system. I am currently working a community order six hours a week, and paying back the benefits that I was over paid. I am not a dishonest person and hope that you will see that by looking back at previous history with licensing.

Page 38

MR PETER DAWE-SMITH.