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**Angela Hutchings**  
**Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Thursday, 25<sup>th</sup> May, at 11:30am</b>
<b>Venue:</b>	<b>Council Offices, Council Chamber</b>
<b>Membership:</b>	<b>Councillors Greig, Palmer and Savage</b>
<b>Officers attending:</b>	<b>Benjamin Badura - Legal Adviser Melanie Harris - Head of Licensing &amp; Safer Communities</b>
<b>Committee Enquiries:</b>	<b>Loretta Hill, Ext. No. 2427</b>

### **PART I**

**(Business to be taken in public)**

- 1. Appointment of Chairman**
- 2. Procedure for the Sub-Committee**
- 3. Appeal against refusal to grant a Private Hire Driver's Licence – Applicant U**

The report of the Head of Licensing and Safer Communities is attached.

- 4. Decision**

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**PROCEDURE FOR HEARING**

**1. Introductions**

- a. Chairman introduces Panel Members to the applicant.
- b. Chairman identifies officers and their roles.
- c. Applicant identifies themselves, any representative and any accompanying persons. They also identify who intends to present the case.
- d. Objector(s) to be identified.

**2. Case Summary by the Head of Licensing and Safer Communities**

As shown at Agenda Item 3.

**3. Objector(s) presents objection(s)**

**4. The Applicant's Submission**

The applicant or their representative will submit their case

**5. Questions from Panel**

Opportunity for any questions from Panel to either side.

**6. Adjournment**

Proceedings will be adjourned while the Panel withdraw to consider its decision. During this time the Clerk will accompany the Panel to record the decision. The Committee may request the presence of the Legal Advisor to give them legal advice.

**7. Decision**

The Panel will reconvene, and the Chairman will announce the decision.

**8. Conclusion**

The Chairman will close the proceedings.

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**LICENSING SUB COMMITTEE**

**25 May 2023**

**Subject: Appeal against refusal to grant a Private Hire Driver's Licence – Applicant U**

**Report of: Head of Licensing and Safer Communities**

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**1. Purpose of Report**

To consider the appeal made by Applicant U against the refusal by the Council to grant a Private Hire Driver's Licence.

**2. Background**

- 2.1** Applicant U applied for a Private Hire Driver's Licence in April 2023. The Council refused to progress the application due to the driving endorsements declared by the applicant.

Applicant U has the following motoring convictions recorded on his driving licence:

- 21 May 2021  
SP30 – Exceeding statutory speed limit on a public road  
Penalty Points - 3
- 24 February 2021  
MS90 - Failure to give information as to identity of driver etc  
Penalty Points – 6

The application form is attached at Appendix 1

The driving licence endorsements are attached at Appendix 2

- 2.2** The legislation relating to the refusal to grant a driver's licence is contained under the provisions of the LG(MP)A 1976, section 51, whereby at 51.(1) subject to the provisions of this part of this Act, a district council shall, on receipt of an application from any person for the grant of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence-

- (a) unless they are satisfied that the Applicant U is a fit and proper person to hold a driver's licence: or
- (b) to any person who has not for at least twelve months been and is not at the date of the application for a driver's licence, the holder of a licence granted under Part III of the Act of 1972 (not being a provisional licence) authorising him to drive a motor car.

(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

(3) It shall be the duty of a council by which licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely-

- (a) the name of the person to whom it is granted;
- (b) the date on which and the period for which granted; and
- (c) if the licence has a serial number, that number, and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

Under S52. Any person aggrieved by –

- (1) the refusal of the district council to grant a driver's licence under section 51 of this Act; or
- (2) any conditions attached to the grant of a driver's licence;

may appeal to a magistrate's court.

### 3.2 **Castle Point Hackney Carriage and Private Hire Licensing Policy** Assessment of Previous Convictions

Guidance on assessment of previous convictions was contained within the Department for Transport's (DFT) Statutory Taxi and Private Hire Vehicle Standards released in July 2020. These standards were adopted by the Council in November 2020 following a period of consultation and include the following in relation to driving offences:

Offence	Elapsed period before licence should be issued
Applicants with multiple driving offences	May indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally

The full Assessment of Convictions is attached at Appendix 3.

#### 4. 'Fit and Proper'

The definition of what is a fit and proper person is not defined in law however the generally accepted test is:

- *Would you allow your son, daughter, mother, spouse or other person you care about to get into a vehicle with this person alone?*

This definition was supported in the judgement by HHJ Silber in the case of Leeds City Council v Hussain which surrounds the suspension of a driver:

...'the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose is to prevent licences being given or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault people.'

As Applicant U has the above convictions and has been refused a licence by two other local authorities he is not regarded as a fit and proper person to hold a Private Hire Driver's Licence and the Council made the decision to refuse the application.

Applicant U submitted a written appeal against this decision to the Council by email on 18 May 2023. A copy is attached at Appendix 4.

#### 5. Legal implications

Decisions in relation to the grant of a licence give rise to the obligations under the Human Rights Act 1998. The Council will therefore ensure that there is a review hearing before the Licensing Sub-Committee. It should be noted that Applicant U has the right to appeal the decision made by the Council to the Magistrates Court if he is aggrieved by the decision of the Sub-Committee.

#### 6. Options

The Sub-Committee is advised that it has the following options when determining this application.

- (i) Uphold the decision to refuse the Private Hire Driver's Licence application
- (ii) Allow the Private Hire Driver's Licence application to progress.

#### **Recommendation**

**The decision of the Sub Committee is required following proper consideration**

of the application and any representations made to the Sub Committee.

**Appendices**

Appendix 1 – Application form

Appendix 2 – Driving licence summary

Appendix 3 - Assessment of previous convictions

Appendix – Appeal letter

**Background Papers:**

Local Government (Miscellaneous Provisions) Act

1976 [http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga\\_19760057\\_en.pdf](http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga_19760057_en.pdf)

Department for Transport Statutory Taxi and Private Hire Vehicle Standards 2020

[Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards-2020)

CPBC Hackney Carriage and Private Hire Policy





## Application for the grant of a Private Hire Driver's Licence

Office use		
Date received		PHD number
Name		
Address		
Date of birth	phone	email
National Insurance Number		
<p>Do you currently hold or have you previously held a licence with another authority? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><i>If yes you will need to provide an HMRC Tax Check Code at your ID Appointment. Search "Complete a Tax Check for a Taxi" and generate the code.</i></p>		
<p>Have you ever been refused a licence or had a licence revoked or suspended? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><i>If yes please give details</i></p>		
<p>Please tick to confirm you have held a full DVLA licence to drive a motor vehicle for 3 years or more <input checked="" type="checkbox"/></p>		
<p>Have you spent a period of 3 continuous months or more, since the age of 18 years, living or working outside the United Kingdom.</p> <p>Yes <input type="checkbox"/> - Please provide dates      No <input checked="" type="checkbox"/></p> <p><i>If yes please provide evidence of a criminal record check or Certificate of Good Character from the country/countries covering the relevant period</i></p>		
<p>Is English your first language? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p><i>If no you will need to provide evidence of appropriate level or complete a test</i></p>		
<p>Do you have a British Passport Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><i>If no you will need to provide a Right to Work Share Code at your ID Appointment</i></p>		
Name of proposed Operator		

mail  
com

Have you ever been convicted in court or received any fixed penalty notices?


Yes ☒ No ☐

If yes give details of all convictions, fixed penalty notices, current points on licence or any court or proceedings pending against you.

Offence	Court	Date	Penalty
S930		2105-2020	3
MS90		24-02-2021	6

Please continue on a separate sheet if required

If any person knowingly or recklessly makes a false statement or omits any material particularly when giving information under this section, they shall be guilty of an offence.

Signed 	Date 12-04-2023

The information provided by you will be held and processed by Castle Point Borough Council in accordance with the Data Protection Act 2018 and the General Data Protection Regulations. The Council will process your data in line with our privacy notices and our policies and procedures. Full details can be found on the Council's website at <https://www.castlepoint.gov.uk/info-governance> or by contacting us for further information.





# Driver & Vehicle Licensing Agency

## Licence summary

You can share this licence information summary with someone else like your employer or a car hire firm.

Mr [REDACTED]

Driving licence number:  
XXXXXXXXX11RA9YP

Licence issue number:  
08

Licence valid from:  
18 March 2021

Licence valid to:  
6 June 2026

Check code:

**vy fp P7 Yv**

This code

- is case sensitive
- is valid for 21 days
- can only be used once

Date summary generated:

18 May 2023 16:28

### Driving Status

Current full licence

### Endorsements

2

Offences

9

Points

## Endorsements

### SP30

Penalty points:  
3

Offence date:  
21 May 2021

Expiry date:  
21 May 2024

Description:  
Exceeding statutory speed limit on a public road

### MS90

Penalty points:  
6

Offence date:  
24 February  
2021

Expiry date:  
24 February  
2024

Description:  
Failure to give information as to identity of driver etc



A change in legislation means that, from the 15th November 2021, drivers will be able to choose to take a lorry or bus trailer test without having to take a test in the rigid vehicle first.

More information is available at <https://www.gov.uk/adding-higher-categories-to-your-driving-licence>

An additional legislative change from the 16th December 2021 also means that drivers with B (Car) entitlement will automatically have B+E (Car & Trailer) entitlement without the need to take a B+E test. This will allow licence holders to tow a vehicle up to 3,500kg Maximum Authorised Mass (MAM).

Please note that these changes will not be reflected on current driving licences, or on any of our online services. There is no need to contact DVLA regarding this change, photocard driving licences will be updated the next time licence holders transact with DVLA.

## Can drive

Category	Start date	End date	Codes
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## Provisionally drive

Category	Start date	End date	Codes
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## What to do next

### How to share your licence summary

Give the check code or this licence summary to someone else, like your employer or a car hire firm. They'll also need the last 8 characters of your driving licence number.

### Where to view a shared licence summary

Visit <https://www.gov.uk/check-driving-licence> and enter the last 8 characters of the driving licence number and the check code.

### Check code not working?

If the code generated is older than 21 days, or the code has been viewed once before, a new code must be created.



## Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is fit and proper. The following reflects this.

Each case will be considered on its own merits and applicants / licensees are entitled to a fair and impartial consideration of their application.

Where a period is given below it will be taken to be a **minimum** in considering whether a licence should be granted or renewed in most cases. This puts passenger safety first while enabling past offenders to sufficiently evidence that they have rehabilitated.

Offence	Elapsed period before licence should be issued
<b>Crimes resulting in death</b>	Never licensed
<b>Exploitation</b>  Convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children.  Slavery, Child Sexual Abuse, Exploitation, Grooming, Psychological, Emotional or Financial Abuse. This is not an exhaustive list	Never licensed
<b>Sexual offences</b>  Conviction for any offence involving or connected with illegal sexual activity  Any applicant currently on the Sex Offenders Register or any barred list	Never licensed  Never licensed
<b>Offences involving violence against the person</b>  Conviction for an offence of violence against the person, or connected with any offence of violence	At least 10 years since completion of sentence imposed
<b>Possession of weapon</b>  Conviction of possession of a weapon or any	At least 7 years since completion

other weapon related offence	of sentence imposed
<b>Dishonesty</b>  Conviction for any offence where dishonesty is an element of the offence	At least 7 years since completion of sentence imposed
<b>Drugs</b>  Conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply  Conviction for possession of drugs, or related to the possession of drugs	At least 10 years since completion of sentence imposed  At least 5 years since completion of sentence imposed An applicant may also have to undergo drugs testing for a period at their own expense to demonstrate they are not using controlled drugs
<b>Discrimination</b>  Conviction involving or connected with discrimination in any form	At least 7 years since completion of sentence imposed
<b>Motoring Convictions</b>  It is accepted that offences can be committed unintentionally, a single minor traffic offence would not prohibit granting a licence or revocation of an existing licence providing the authority considers that the licensee remains a fit and proper person  Applicants with multiple motoring convictions	Indicates that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally
<b>Drink driving / driving under the influence of drugs</b>  Conviction for drink driving  Conviction for driving under the influence of drugs	At least 7 years since completion of sentence imposed  At least 7 years since completion of sentence imposed. An applicant may also have to undergo drugs testing for a period at their own

	expense to demonstrate they are not using controlled drugs
<b>Using a hand held device whilst driving</b>  Conviction for using a hand held mobile phone or device whilst driving	At least 5 years since completion of sentence imposed

MAY 18, 2023

Tel:

Castle Point Borough Council Licensing Department  
Council Offices, Kiln Road,  
Thundersley, Benfleet,  
Essex SS7 1TF  
Tel: 01268882480

Dear: To Whom it May Concern ,

**Appeal Regarding Private Hire Driver's Licence**

I make reference to your letter dated April 21, 2022 regarding my application for the Private Hire Driver's licence, in which I was denied on the ground that I am not a fit and proper person to hold a Driver's licence pursuant to s.51(1) of the LGMPA Act of 1976.

The basis for my refusal was mainly on the ground of my multiple driving offences and I do agree that it is a valid ground however, I argue that this is unreasonable taking into consideration all the relevant factors. I am a scaffolder for over twenty years and a father of three. My reason for change in occupation is that of convenience, health considerations and the financial ability to adequately maintain my family. It must be mentioned that I possess a clean criminal record and this should be considered in determining that I am able to hold Private Hire Driver's licence.



The definition of "Fit and Proper" as described in the letter describes a person that can be trusted to drive safely with family members. I do satisfy this criteria as I ever so often travel with my two daughters as the sole driver in picking up\dropping off to and from school on a weekly basis. Furthermore I have been driving for over 6 years and maintain a sober mindset around the steering wheel as I am not a person that practices drinking alcohol. I am mentally sound and physically able to drive as my health record indicates that there are no current illnesses that can substantially impair my ability to drive therefore making me a fit and proper person.

I am honest and very Hardworking man and I would not take advantage of this opportunity to harass anyone as my criminal records shows no charges for harassment and I am only concerned about how I can be productive and improve on the job daily.

I do realize that I have nine points that are currently on my Driver's licence as evidence of my misconduct. On February 24, 2024 six points will be removed and on May 21, 2024 the final three points be removed. Therefore as of Mid next year my driving irregularities will be wiped clean and would genuinely prefer if possible that the Private Hire licence be granted when my driving record is clean .

In taking into consideration all the relevant circumstances my driving irregularities are present but my entire character shows that I satisfy every other criteria required in order to obtain the Private Hire licence and it would be reasonable to do so. I humbly ask that all these considerations will be valued and if I am not able to obtain the licence this year I could obtain it next year when my driving record is wiped clean.

Yours Faithfully,