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**Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Monday, 10 August 2020 at 12:00 noon.</b>
<b>Venue:</b>	<b>Council Chamber</b>
<b>Membership:</b>	<b>Councillors Acott, Isaacs &amp; Skipp</b>
<b>Officers attending:</b>	<b>Mel Harris - Head of Licensing &amp; Safer Communities Andrew Smith – Corporate Legal Adviser</b>
<b>Committee Enquiries:</b>	<b>Cheryl Salmon, Ext. No. 2454</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 Taxi Driver's Licence – Applicant R**  
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

**LICENSING SUB COMMITTEE**

**10 August 2020**

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

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

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**1. Purpose of Report**

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

**2. Background**

Applicant R applied to the Licensing Department in July 2020 for a Private Hire Driver's Licence. The Council refused to progress the application because Applicant D has the following convictions:

- Driving whilst disqualified (30/03/2005)
- Using vehicle while uninsured (30/03/2005)
- Conspiracy to defraud (12/10/2011)

A copy of the DBS is attached at Appendix 1.

The application form is attached at Appendix 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 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. '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 R has been convicted of the above offences he is not regarded as a fit and proper person to hold an operator's licence or a driver's licence and the Council made the decision to refuse the application.

#### **4. 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 R 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.

#### **5. Options**

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

- (i) Uphold the decision to refuse to progress 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 – DBS certificate

Appendix 2 – Application form


#### **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)

## Enhanced Certificate

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 Driver and Licensing Service


 DLS Card Number

Certificate Number

Date of Issue

17 MARCH 2020

Employment Details

Position held for:  
OTHER WORK FORCE PRIVATE HIRE DRIVERName of Employer:  
HILL DRIVERS LTD

Counter-signatory Details

Registered Person/Body:  
CASTLE POINT BOROUGH COUNCIL

Counter-signatory:

## Applicant Personal Details

Surname

Forename(s)

Other Name(s)

Date of Birth

Place of Birth

Gender

## Police Records of Convictions, Cautions, Reprimands and Warnings

Surname

Forename(s)

Gender

Date of Birth

Last known occupation:  
COURIER  
Also known as:  
NONE RECORDED  
Also Date of Birth:  
NONE RECORDED

## Conviction Details

Conviction

Date of Conviction:  
23 MARCH 2005Court:  
ASHFORD MAGISTRATES

1. DRIVING WHILE DISQUALIFIED  
ON 27 JUNE 2002  
ROAD TRAFFIC ACT 1991 S 103(1)(b)  
2. USING VEHICLE WHILE UNINSURED  
ON 27 JUNE 2002  
ROAD TRAFFIC ACT 1991 S 103(2)

Disposal:  
COMMUNITY PUNISHMENT ORDER 100 HRS  
COMMUNITY REHABILITATION ORDER 12 MTHS  
DISQUALIFIED FROM DRIVING - OBLIGATORY 18 MTHS  
NO SEPARATE PENALTY  
DRIVING LICENCE ENDORSED  
CD515 43.00

Conviction

Date of Conviction:  
05 OCTOBER 2011Court:  
SOUTHWARD CROWN

1. Offence:  
CONSPIRACY TO DEFRAUD  
ON 01 JANUARY 2010  
COMMON LAW

Disposal:  
REPRIMAND 3 YRS BREACH OF DAIL AT SOUTHWARD  
MAGS 07/01/2011 - 1 DAY CONCURRENT  
CONFINEMENT 5.00 OR IN DEFAULT SERVE 7 DAYS  
CONSECUTIVE

THIS CERTIFICATE IS NOT EVIDENCE OF IDENTITY

Continued on page 2

Driver and Licensing Service, PO Box 165, Liverpool, L69 1UD. HelpLine: 01000 200 100

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## Information from the list held under Section 142 of the Education Act 2002

NONE RECORDED

## DBS Children's Barred List information

NONE RECORDED

## DBS Adults' Barred List information

NONE RECORDED

## Other relevant information disclosed at the Chief Police Officer(s) discretion

NONE RECORDED

**Enhanced Certificate**

This document is an Enhanced Criminal Record Certificate within the meaning of sections 113B and 115 of the Police Act 1997.

**Use of certificate information**

The information contained in this certificate is confidential and all recipients must keep it secure and protect it from loss or unauthorised access. This Certificate must only be used in accordance with the Disclosure and Barring Service's (DBS) Code of Practice and any other guidance issued by the DBS. Particular attention must be given to the guidance in the fair use of the information in respect of those whose Certificate reveals a conviction or similar information. The DBS will monitor the compliance of Registered Bodies with this Code of Practice and other guidance.

This Certificate is issued in accordance with Part V of the Police Act 1997, which creates a number of offences. These offences include forgery or alteration of Certificates, obtaining Certificates under false pretences, and using a Certificate issued to another person as if it was one's own.

This Certificate is not evidence of the identity of the bearer, nor does it establish a person's entitlement to work in the UK.

**Certificate content**

The personal details contained in this Certificate are those supplied by or on behalf of the person to whom the Certificate relates at the time the application was made and that appear to match any conviction or other details linked to that identity.

The information contained in this Certificate is derived from police records, and from records held of those who are unsuitable to work with children and/or adults, where indicated. The police records are those held on the Police National Computer (PNC) that contains details of Convictions, Cautions, Reprimands and Warnings in England and Wales, and most of the relevant convictions in Scotland and Northern Ireland may also be included. The DBS reserves the right to add new data sources. For the most up to date list of data sources which are searched by the DBS please visit the DBS website.

The Other Relevant Information is disclosed at the discretion of the Chief Police Officers or those of an equivalent level in other policing agencies, who have been approached by the DBS, with due regard to the position sought by the person to whom the Certificate relates.

**Certificate accuracy**

The DBS does not guarantee the accuracy of the information disclosed on this Certificate, nor does it warrant that the information is complete or that it is free from error. The DBS does not accept liability for any loss or damage, whether direct or indirect, arising from the use of this Certificate. The DBS does not accept liability for any loss or damage, whether direct or indirect, arising from the use of this Certificate. The DBS does not accept liability for any loss or damage, whether direct or indirect, arising from the use of this Certificate.

Date 15-7-20

castlepoint

PHD No

## Application for a Private Hire Driver Licence

Title Miss, Mrs, Ms, Mr, other

MR

Surname

Forename(s)

Address

Postcode

Tel no

Email address

Date and place of birth

Present occupation

Present employer

Have you ever been refused a Hackney Carriage or Private Hire Driver Licence?

NO

If 'Yes', please give expiry date and proprietor

How long have you held a full licence to drive a motor vehicle?

20 YEARS

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

Yes/No

If 'Yes', details of all convictions other than 'spent' convictions, must be shown below any inaccuracy may prejudice the issue of a licence. Are there any court or other proceedings pending against you?

Offence	Court	Date	Penalty
1 Driving Offence	ASHFORD	30-3-05	Community Service + <del>15</del>
2 FRAUD	SOUTHWARK CC	12-10-11	3 YEARS PRISON

Name of Private Hire proprietor

Circuit

\*If applicable

I hereby confirm that the applicant will be employed by me as a Private Hire Driver, subject to the Council issuing a licence for that purpose.

Signature of Private Hire Proprietor \*If applicable

I declare that my answers to the questions above are true to the best of my knowledge. I understand that if I have made an omission or statement I know to be false, my application may be refused without further consideration or if a licence has been issued it will be liable to immediate suspension. I have read and understood the Licensing Standards and Conditions contained in the Policy document.

Signed

Date

15-7-20