



Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF
Tel. No: 01268 882200



Angela Hutchings
Chief Executive

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Tuesday, 13th February 2024, at 11.00am
Venue:	Council Offices, Council Chamber
Membership:	Councillors Acott, Knott & Walter
Officers attending:	Amaka Ozono – Corporate Legal Adviser Helen Collins – Community Safety Officer Sonia Worthington – Democratic Services Manager
Committee Enquiries:	Loretta Hill, Ext. No. 2427

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

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

The report of the Director of Place and 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 Licensing and Safer Communities Officer

As shown at Agenda Item 3.

Opportunity for any questions to the Licensing and Safer Communities Officer on either side.

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 give the decision and close the proceedings.

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LICENSING SUB COMMITTEE

13 February 2024

Subject: Appeal against the suspension of a Private Hire Driver's Licence
– Driver D

Report of: Director of Place and Communities

1. Purpose of Report

To consider an appeal against the suspension of a Private Hire Driver's Licence

2. Background

2.1 Driver D has been licenced by Castle Point Borough Council as a Private Hire Driver since December 2021.

2.2 The Council's Hackney Carriage and Private Hire Licensing Policy states that:

"Other convictions, cautions, penalty points and driving offences recorded since the completion of the application form for a licence must be reported to licensing in writing or by electronic means within seven days of the event."

On 8 December 2023 Driver D reported to the Licensing Team that he had attended Lavender Hill Magistrates Court on 6 December 2023 and received a 14 day disqualification and £260 fine for a CU80 offence committed on 29 March 2023.

A copy of the notification email is attached at Appendix A

The current endorsements on Driver D's licence are as follows:

	Penalty	Offence Date	Expiry Date	Description
CU80	14 day disqualification	29 March 2023	6 December 2026	Breach of requirements as to control of the vehicle, mobile telephone etc

SP30	3 points	15 July 2022	15 July 2025	Exceeding statutory speed limit on a public road
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The Licensing Team were not notified of the 2022 SP30 offence or at the time of the CU80 offence.

A copy of the DVLA Driving Licence Summary is attached at Appendix B

2.3 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
Conviction for using a hand held mobile phone or device while driving	at least 5 years since completion of sentence imposed
Applicants with multiple motoring offences	Indicates that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally

Where a period is given 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.

For the breach of this licensing condition Driver D would not be eligible to be licenced until at least 5 years after the CU80 offence.

The full Assessment of Convictions is attached at Appendix C

- 2.4 In order to protect the public the Council can only support licensed drivers that are reliable and of a good standard therefore a person being considered for a drivers licence will need to satisfy all aspects of the Councils pre-licensing standards before obtaining a licence and throughout the lifetime of it.

The Council's Hackney Carriage and Private Hire Licensing Policy pre licensing standards include:

"Not to have been disqualified from driving for any period of time during the three years prior to making the application."

Driver D received a disqualification of 14 days on 6 December 2023.

For the breach of this licensing condition Driver D would not be eligible to be licenced until 3 years from the end of the disqualification.

- 2.5 The DVLA licence endorsements mean that Driver D no longer meets the Council's licensing standards and Driver D's Private Hire Driver's Licence was suspended on 18 January 2024.

An appeal from Driver D was received on 24 January 2024

A copy of the appeal together with a letter from a legal representative submitted by the driver is attached at Appendix D of the report.

- 2.5 The Hackney Carriage and Private Hire Policy was adopted to maintain the safety of public transport vehicles, drivers and paying customers. Failure to abide with the requirements of the Policy puts the safety of drivers and passengers at risk.

The legislation relating to the suspension of a licence falls under Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976 (LGMPA). Under this Section a licensing authority can suspend, revoke or refuse to renew a driver's hackney carriage or private hire licence on any of the following grounds:

1. That he has since the grant of the licence—

been convicted of an offence involving dishonesty, indecency or violence; or 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;

2. that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

3. any other reasonable cause.

Under section 61(2B) a licensing authority has the power to revoke or suspend

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.'

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 Driver D 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) Lift the suspension and revoke the Private Hire Driver's Licence as Driver D no longer meets the Council's Licensing Standards
- (ii) Lift the suspension and reinstate the Private Hire Driver's Licence.

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 A – Notification of driving endorsement email

Appendix B – Driving Licence Summary

Appendix C – Assessment of Previous Convictions Policy

Appendix D – Appeal email and support letter

Background Papers:

CPBC Hackney Carriage and Private Hire Licensing Policy

Local Government (Miscellaneous Provisions) Act 1976

Report Author:

Helen Collins Licensing Officer

From:
Sent: 08 December 2023 11:07
To: Licensing
Subject: - Road traffic matter

Dear Licencing Team,

I would be grateful if a member of the Licencing team would call me to discuss a road traffic matter.

In brief.

I attended Lavender Hill Magistrates Court on 6th December 2023, to face a charge of using a mobile device whilst behind the wheel of a motor vehicle. On advise from my legal representation I pleaded guilty with mitigating circumstances, specifically I was stationery in a traffic jam for approximately 10 minutes, the car was in park and the engine was off. The magistrates look all the mitigating circumstances and as this is a fixed penalty offence they showed leniency and gave me a 14 day ban and £260 fine (no points on my licence)

Hopefully by me taking this to court, you can see how seriously I took this offence and how the courts have taken the mitigating circumstances into account and have applied a minimal punishment.

I would be grateful if you could call or email me to arrange a meeting to discuss how this would effect my current PHL & PHOL and going forward my PHL renewal in June 2024

Yours sincerely

Licence summary

This was the latest information held when the driving licence summary was generated.

Driving licence number:
XXXXXXXXX036C99TT

Licence issue number:
70

Licence valid from:
31 October 2022

Licence valid to:
30 October 2032

Check code:

pp 8q wN 2M

This code is now invalid and cannot be used again.

Date summary viewed:

5 February 2024 13:59

Driving Status

Current full licence

Endorsements

2

Offences

3

Points

Endorsements

CU80

Penalty points:

Offence date:

29 March 2023

Expiry date:

6 December 2026

Description:

Breach of requirements as to control of the vehicle, mobile telephone etc

SP30

Penalty points:

3

Offence date:

15 July 2022

Expiry date:

15 July 2025

Description:

Exceeding statutory speed limit on a public road






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>

Can drive

Category	Start date	End date	Codes
AM 	31 October 2022	2 November 2036	01
A 	19 January 2013	2 November 2036	79(3), 01
B1 	29 February 1984	2 November 2036	01
B 	29 February 1984	2 November 2036	01
BE 	29 February 1984	2 November 2036	01

Provisionally drive

Category	Start date	End date	Codes
A 	3 November 1983	2 November 2036	01
G 	3 November 1983	2 November 2036	01
H 	3 November 1983	2 November 2036	01

What to do if you need to see this information again

Ask the person who shared their licence with you for a new check code in order to see the licence information again.



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
Crimes resulting in death	Never licensed
Exploitation 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
Sexual offences 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
Offences involving violence against the person 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
Possession of weapon Conviction of possession of a weapon or any	At least 7 years since completion

other weapon related offence	of sentence imposed
Dishonesty Conviction for any offence where dishonesty is an element of the offence	At least 7 years since completion of sentence imposed
Drugs 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
Discrimination Conviction involving or connected with discrimination in any form	At least 7 years since completion of sentence imposed
Motoring Convictions 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
Drink driving / driving under the influence of drugs 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
Using a hand held device whilst driving Conviction for using a hand held mobile phone or device whilst driving	At least 5 years since completion of sentence imposed

From:
Sent: 24 January 2024 12:23
To: Licensing
Subject: URGENT
Attachments: Closing Letter - 09 12 23.pdf

Importance: High

URGENT URGENT URGENT URGENT

Dear Licencing Team,

In reference to your email sent 18th January 2024 in reference to my mobile phone offence.

In your email you stated "We have today suspended your licences pending receipt of this information". Including this email, I have now sent all the documentation I have in my possession.

As the suspension is still in place, and my PHL is my only form of income, I am unable to earn a living and my outgoings are starting to build up. I would be grateful if you could look into this, as a matter of urgency, to see if my suspension can be lifted whilst my case is being processed.

I would like to attend an interview, at your earliest convenience, to explain my actions and to prove to the Licencing team that I am a fit, proper and responsible person to hold a Castle point private hire licence.

I would be grateful if a member of the licensing team would acknowledge receipt of my emails, as I only seem to get a generic email response from Castlepoint Borough Council.

I look forward to hearing from you in the very near future.

Regards

BY EMAIL

Our Ref: RSB/DAY
Saturday, 09 December 2023

Dear

Re: Your Road Traffic Matter

I am writing to inform you that my work on your behalf has now come to an end.

The final outcome in relation to your case was as follows: -

- You attended Lavender Hill Magistrates Court on the 6th of December 2023 with Ciara Moran as counsel for a sentencing hearing.
- We successfully persuaded the magistrates to impose a short discretionary disqualification as opposed to points.
- A disqualification of fourteen days was imposed instead of six penalty points.
- This disqualification will end at 23:59 on the 20th of December 2023.

This therefore brings my involvement in your matter to an end. Your file will now be closed, and your records will be retained for a minimum period of six years should you need to refer to them again in the future.

It was great working with you, and I would be extremely thankful if you could leave me a review.

Like any business we value your feedback and are always striving for ways to improve our service. I would greatly appreciate it if you could leave a review to tell us of your experience of Patterson Law.

If you have a Google account, on a PC you can [Submit Your Review Here](#), or on a mobile device, [please click here](#). If you use Facebook, I would greatly appreciate it if you could leave us a review by clicking [here](#). You can also leave us a review by [clicking here](#).

Please may I take this opportunity to remind you of our complaint's procedure. If you have any concerns about the way in which your case was handled, please contact Clare Hudson, our client care manager, and she will attempt to satisfactorily resolve any issues you raise. If however you are not satisfied with her conclusions, you can contact the Legal Ombudsman on 0300 555 0333.

All that remains is for me to thank you for your kind instructions and to wish you all the very best for the future.

Yours sincerely

Patterson Law