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**Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Thursday, 19<sup>th</sup> November 2019 at 12.30pm</b>
<b>Venue:</b>	<b>Council Chamber</b>
<b>Membership:</b>	<b>Councillors Cross, Greig &amp; Isaacs</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>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 R**

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

- 4. Decision**

**LICENSING SUB COMMITTEE**

**19 December 2019**

**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 2019 for a Private Hire Driver's Licence. The Council refused to grant the application because R has the following convictions:

- Failing to stop after accident (29/11/2006)
- Driving without due care and attention (29/11/2006)
- Using vehicle with no test certificate (29/11/2006)
- Driving otherwise than in accordance with a licence (29/11/2006)
- Using vehicle whilst uninsured (29/11/2006)
- Making off without paying (3/1/2008)
- Battery (28/4/2008)
- Battery (18/6/2008)
- Breach of a Community Order (1/12/2009)
- Theft from dwelling (25/8/2010)
- Assault occasioning actual bodily harm (1/4/2012)

A copy of the DBS is attached at Appendix 1.

The application for a Private Hire Driver's Licence dated 22/07/19 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 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 grant the Private Hire Driver's Licence.
- (ii) Grant 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 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)

Date: 25.7.19.

PHD No. \_\_\_\_\_

**Application for a Private Hire Driver's/Restricted Private Hire Driver's Licence**  
(\*Delete as appropriate)

Title Miss, Mrs, Ms, Mr, other \_\_\_\_\_

Surname \_\_\_\_\_

Forename(s) \_\_\_\_\_

Address \_\_\_\_\_

Postcode \_\_\_\_\_

Tel no \_\_\_\_\_

Email address \_\_\_\_\_

Date and place of birth 1-10-1981

Present occupation \_\_\_\_\_

Present employer SELF EMPLOYEDHave you ever been refused a Hackney Carriage or Private Hire Driver's Licence? NO

If 'Yes', please give expiry date and proprietor \_\_\_\_\_

How long have you held a full licence to drive a motor vehicle? 12 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? NO

Offence	Court	Date	Penalty

Name of Private Hire proprietor \_\_\_\_\_

ANDREW TAXIS  
Circuit \_\_\_\_\_  
\*If applicable

I hereby confirm that the applicant will be employed by me as a Private Hire Driver/Restricted 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 Pre-Licensing Standards and Conditions contained in the Policy document.

Signed \_\_\_\_\_ Date 22/07/2019

# Enhanced Certificate

Page 1 of 4

Disclosure & Barring Service

DBS Fee Charged

Certificate Number

001673701336

Date of Issue:

23 SEPTEMBER 2019

## Applicant Personal Details

## Employment Details

Surname:

Position applied for:

Forename(s):

Name of Employer:

Other Names: NONE DECLARED

Date of Birth: 29 SEPTEMBER 1989

## Countersignatory Details

Place of Birth:

Registered Person/Body:

Gender:

CASTLE POINT BOROUGH COUNCIL

Countersignatory:

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

Surname:

Last known occupation:

Forename(s):

Alias Name(s):

Gender:

Alias Date of Birth:

Birth Details:

NONE RECORDED

## Conviction Details

Conviction:

Date of Conviction:

29 NOVEMBER 2006

Court:

SOUTH-EAST ESSEX JUVENILE

Disposal:

REFERRAL ORDER 4 MTHS

Offence:

FAILING TO STOP AFTER ACCIDENT

ON 21 NOVEMBER 2006

ROAD TRAFFIC ACT 1988 S.170(4)

DRIVING LICENCE ENDORSED

COSTS 20.00

DRIVING WITHOUT DUE CARE AND ATTENTION

ON 21 NOVEMBER 2006

ROAD TRAFFIC ACT 1988 S.3

REFERRAL ORDER 4 MTHS

DRIVING LICENCE ENDORSED

USING VEHICLE WITH NO TEST CERTIFICATE

ON 21 NOVEMBER 2006

ROAD TRAFFIC ACT 1988 S.47(1)

REFERRAL ORDER 4 MTHS

DRIVING LICENCE ENDORSED

DRIVING OTHERWISE THAN IN ACCORDANCE WITH A LICENCE

ON 21 NOVEMBER 2006

ROAD TRAFFIC ACT 1988 S.87(1)

REFERRAL ORDER 4 MTHS

DRIVING LICENCE ENDORSED

USING VEHICLE WHILE UNINSURED

ON 21 NOVEMBER 2006

ROAD TRAFFIC ACT 1988 S.143(2)

REFERRAL ORDER 4 MTHS

DISQUALIFICATION FROM DRIVING 3 MTHS

DRIVING LICENCE ENDORSED



Conviction: 2	Date of Conviction: 03 JANUARY 2008	Court: SOUTH-EAST ESSEX MAGISTRATES
1	Offence: MAKING OFF WITHOUT PAYING ON 16 NOVEMBER 2007 THEFT ACT 1978 S.3	Disposal: CONDITIONAL DISCHARGE 12 MTHS COMPENSATION 28.37 COSTS 60.00
Conviction: 3	Date of Conviction: 28 APRIL 2008	Court: SOUTH-EAST ESSEX MAGISTRATES
1	Offence: BATTERY ON 01 SEPTEMBER 2007 CRIMINAL JUSTICE ACT 1988 S.39	Disposal: YOUNG OFFENDERS INSTITUTION 18 WKS APPEAL PENDING
Conviction: 4	Date of Conviction: 18 JUNE 2008	Court: BASILDON CROWN
1	Offence: BATTERY ON 20 NOVEMBER 2007 CRIMINAL JUSTICE ACT 1988 S.39	Disposal: COMMUNITY ORDER 18 MTHS UNPAID WORK REQUIREMENT 75 HRS PROGRAMME REQUIREMENT THINK FIRST COMPENSATION 250.00 COSTS 50.00
Conviction: 5	Date of Conviction: 01 DECEMBER 2009	Court: BASILDON CROWN
1	Offence: BREACH OF A COMMUNITY ORDER ON 20 NOVEMBER 2007 CRIMINAL JUSTICE ACT 2003 SCH.8	Disposal: RESULTING FROM ORIGINAL CONVICTION OF 18/06/09 UNPAID WORK REQUIREMENT 5 HRS ADDITIONAL TO SENTENCE IMPOSED 18/06/08 TOTAL 80 HRS SUPERVISION REQUIREMENT
Conviction: 6	Date of Conviction: 25 AUGUST 2010	Court: SOUTH-EAST ESSEX MAGISTRATES
1	Offence: THEFT FROM DWELLING ON 12 AUGUST 2009 THEFT ACT 1968 S.1	Disposal: COMMUNITY ORDER 12 MTHS ATTENDANCE CENTRE REQUIREMENT 24 HRS

**Caution/Reprimand/Warning Details**

Caution: 1	Date of Caution: 01 APRIL 2012	Police Force: ESSEX POLICE
1	Offence: ASSAULT OCCASIONING ACTUAL BODILY HARM ON 01 APRIL 2012 OFFENCES AGAINST THE PERSON ACT 1861 S.47	

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

NONE RECORDED