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**Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Tuesday 25 February 2020 at 12.00pm.</b>
<b>Venue:</b>	<b>Council Chamber</b>
<b>Membership:</b>	<b>Councillors E. Egan, Greig and Haunts</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 P**  
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**

**25 February 2020**

**Subject: Appeal against refusal to grant an Operator's and Private Hire Driver's Licence – Applicant P**

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

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**1. Purpose of Report**

To consider the appeal made by applicant P against the refusal by the Council to grant an Operator's and Private Hire Driver's Licence.

**2. Background**

Applicant P applied to the Licensing Department in November 2019 for both an Operator's and Private Hire Driver's Licence. The Council refused to grant the application because P has the following convictions:

- Grievous bodily harm (11/5/96)
- Driving a motor vehicle with excess alcohol (26/2/00)

A copy of the DBS is attached at Appendix 1.

The application forms for both licences are attached at Appendix 2.

The legislation relating to the refusal to grant an operator's licence is contained under the provisions of the LG(MP)A 1976, section 55, whereby at 55.(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 operate private hire vehicles, grant to that person an operator's licence: Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

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 P 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 K 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 Operator's and Private Hire Driver's Licence.
- (ii) Grant the Operator's and 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 forms

### **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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DMS Fee Charged

Enclosure & Barring Service

Certificate Number 001167355294

Date of Issue 01 FEBRUARY 2020

## Applicant Personal Details

Surname

Forename(s)

Other Names

Date of Birth

Place of Birth

Gender

## Employment Details

Employer Name / Organisation / Company Name

Address of Employer

Employment Details

Employment Details

Employment Details

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Employment Details

## Conviction Details

Conviction 1

Date of Conviction

01 DECEMBER 1999

Previous Conviction

PREVIOUS BODY HARM ON 15 MAY 1996

Offences Against the Person Act 1967

Section 40

Section 41

Section 42

Section 43

Section 44

Section 45

Section 46

Section 47

Section 48

Section 49

Section 50

Section 51

Section 52

Section 53

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Section 55

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Date: 14/11/19  
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PHD No. \_\_\_\_\_

**Application for a Private Hire Driver's (Restricted) Private Hire Driver's Licence**  
(\*Delete as appropriate)Title Miss, Mrs, Ms, Mr, other MR

Surname \_\_\_\_\_

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

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

Date and place of birth \_\_\_\_\_

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? 21 yearsHave 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
<u>5.5.1</u>	<u>5.5.1</u>	<u>19 Nov 2017</u>	<u>3 points</u>

Name of Private Hire proprietor \_\_\_\_\_ Circuit \_\_\_\_\_  
\*If applicable

I hereby confirm that the applicant will be employed by me as a Private Hire Driver or 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 [Signature] Date 10 Nov 2019

The information supplied on this form will be held on a computer. Castle Point Borough Council may use this information to check other information supplied by you to the Council. The Council may from time to time disclose some of this information in accordance with the Data Protection Act 1984.