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**David Marchant** LLB (Hons) BSc (Hons) CEng FICE FCMI  
**Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Thursday, 1 October 2020 at 12:15pm</b>
<b>Venue:</b>	<b>Council Chamber</b>
<b>Membership:</b>	<b>Councillors Blackwell, Egan &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>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 W**

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**

**1 October 2020**

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

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

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**1. Purpose of Report**

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

**2. Background**

Applicant W contacted the Licensing Department in August 2020 to apply for a Private Hire Driver's Licence. The Council refused to progress the application on receipt of his Disclosure and Barring Service (DBS) certificate because Applicant W has the following convictions:

Date of Conviction: 5 December 2013

Offence: Battery

Disposal: Fine, Compensation & Victim Surcharge.

Date of Conviction: 22 June 2000

Offence: Assault Occasioning Actual Bodily Harm

Disposal: Imprisonment 6 weeks, Compensation.

Date of Conviction: 4 February 1998

Offence: Fraudulent Evasion of Chargeable Duty of Prohibition or Restricted Order on Customs & Excise Management Act

Disposal: Community Services Order, Compensation

Date of Conviction: 8 April 1987

Offence 1: Driving a Motor Vehicle with Excess Alcohol

Offence 2: Making Off without Paying

Disposal: Disqualification from Driving 12months, fine, costs.

Date of conviction: 20 November 1979

Offence: Burglary and Theft Non-Dwelling

Disposal: Fine, Compensation

A copy of the DBS Certificate is attached at Appendix 1.

A copy of 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 W 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 to progress the application.

Applicant W requested an appeal against this decision on 25 August 2020.

A copy of the dated email appeal confirmation is attached at Appendix 3

#### **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

Appendix 3 – Appeal confirmation

**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**

Page 1 of 4

Disclosure &  
Barring Service

DBS Fee Charged

Certificate Number

Date of Issue:

03 AUGUST 2020

**Applicant Personal Details**

Surname:

Forename(s):

Other Names:

NONE DECLARED

Date of Birth:

2

Place of Birth:

HACKNEY LONDON

Gender:

MALE

**Employment Details**

Position applied for:

OTHER WORK FORCE PRIVATE HIRE DRIVER

Name of Employer:

SELF EMPLOYED

**Countersignatory Details**

Registered Person/Body:

CASTLE POINT BOROUGH COUNCIL

Countersignatory:

MELANIE HARRIS

**Police Records of Convictions, Cautions, Reprimands and Warnings****PNC ID(1)**

Surname:

Forename(s):

Gender:

MALE

Birth Details:

NEY

Last known occupation:

PRIVATE HIRE OPERATOR

Alias Name(s):

NONE RECORDED

Alias Date of Birth:

NONE RECORDED

**Conviction Details**

Conviction:

Date of Conviction:

20 NOVEMBER 1979

Court:

HORSEFERRY ROAD MAGISTRATES

Offence:

BURGLARY AND THEFT - NON-DWELLING

Disposal:

FINE 25.00

ON

COMPENSATION 100.00

THEFT ACT 1968 S.9(1)(B)

Conviction:

Date of Conviction:

08 APRIL 1987

Court:

TEESSIDE MAGISTRATES

Offence:

DRIVING A MOTOR VEHICLE WITH

Disposal:

FINE 120.00

EXCESS ALCOHOL

DISQUALIFICATION FROM DRIVING 12 MTHS AND

ON

LICENCE ENDORSED

ROAD TRAFFIC ACT 1972 S.6(1)(A)

MAKING OFF WITHOUT PAYING

FINE 50.00

ON

COSTS 17.00

THEFT ACT 1978 S.3

THIS CERTIFICATE IS NOT EVIDENCE OF IDENTITY

Disclosure and Barring Service, PO Box 165, Liverpool, L69 3JD. Helpline: 03000 200 190

Continued on page 2



Conviction: 3	Date of Conviction: 04 FEBRUARY 1998 [REDACTED]	Court: CRAWLEY MAGISTRATES
1	Offence: FRAUDULENT EVASION OF CHARGEABLE DUTY OR PROHIBITION OR RESTRICTED ORDER ON CUSTOMS AND EXCISE MANAGEMENT ACT 1979 S.170(2)	Disposal: COMMUNITY SERVICE ORDER 200 HRS COSTS 60.00
Conviction: 4	Date of Conviction: 22 JUNE 2000 [REDACTED]	Court: BRENT MAGISTRATES
1	Offence: ASSAULT OCCASIONING ACTUAL BODILY HARM ON OFFENCES AGAINST THE PERSON ACT 1861 S.47	Disposal: IMPRISONMENT 6 WKS COMPENSATION 200.00

**PNC ID(2)**

Surname:

[REDACTED]

[REDACTED]

Gender:

MALE

Birth Details:

[REDACTED]

Last known occupation:

NONE RECORDED

Alias Name(s):

NONE RECORDED

Alias Date of Birth:

NONE RECORDED

**Conviction Details**

Conviction: 1	Date of Conviction: 05 DECEMBER 2013 [REDACTED]	Court: SOUTH EAST LONDON MAGISTRATES
1	Offence: BATTERY ON 15 JUNE 2013 CRIMINAL JUSTICE ACT 1988 S.39	Disposal: FINE 100.00 COMPENSATION 50.00 VICTIM SURCHARGE 20.00 COSTS 150.00

**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 116 of the Police Act 1997.



Date: 25/08/20

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 [REDACTED]

Forename(s) [REDACTED]

Address [REDACTED]

Postcode [REDACTED]

Tel no. [REDACTED]

Email address [REDACTED]

Date and place of birth HACKNEY London

Present occupation CHAUFFEUR

Present employer SELF EMPLOYED

Have 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? 41 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
Drink Driving	TEESIDE	08/04/87	Disqual 12 months, £120 fine
VAT EVASION	CRAWLEY	04/02/1998	Community 200 hrs £60
ABH	Brent	22/06/2000	6 Weeks Imprisonment
BATTERY	SOUTH EAST London	05/12/2013	£100 fine

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 [REDACTED] Date 28/08/20

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.



**Helen Collins**

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**From:** Helen Collins  
**Sent:** 25 August 2020 12:52  
**To:**  
**Subject:** Appeal against decision not to grant licence

Good afternoon

Thank you for your telephone call today confirming you would like to appeal against the decision not to allow your private hire drivers licence application to proceed.

We will advise the date of the hearing as soon as it is available & I look forward to receiving the completed application form as discussed.

Best regards

**Helen Collins**

Community Safety Officer  
Castle Point Borough Council

T: 01268 882461 | E: [hcollins@castlepoint.gov.uk](mailto:hcollins@castlepoint.gov.uk) | W: [www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
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