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**Angela Hutchings**  
**Chief Executive**

## **AGENDA**

|                             |  |
|-----------------------------|--|
| <b>Committee:</b>           | <b>LICENSING SUB-COMMITTEE</b>   |
| <b>Date and Time:</b>       | <b>Friday, 10<sup>th</sup> March 2023 at 11:00am</b>   |
| <b>Venue:</b>               | <b>Council Offices, Council Chamber</b>  |
| <b>Membership:</b>          | <b>Councillors Greig, Palmer and Walter</b>  |
| <b>Officers attending:</b>  | <b>Jason Bishop – Corporate Legal Adviser<br/>Melanie Harris - Head of Licensing &amp; Safer Communities</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 E**

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**

**10 March 2023**

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

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

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**1. Purpose of Report**

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

**2. Background**

- 2.1** Applicant E applied for a Private Hire Driver's Licence in January 2023. The Council refused to progress the application due to the driving endorsements declared by the applicant.

Applicant E has the following motoring convictions recorded on his driving licence:

- 3 April 2022  
CU80 – Breach of requirements as to control of the vehicle, mobile telephone etc  
Penalty Points - 6
- 10 October 2020  
TT99 – "Totting Up" – if the total of penalty points reaches 12 or more within 3 years.  
Disqualification 6 months

- 2.2** As the applicant declared that he had previously been licensed with other authorities, enquiries were made with Maldon District Council and Transport for London (TFL). Applications had been refused by both authorities.

- 2.3** 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 E 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. Castle Point Hackney Carriage and Private Hire Licensing Policy**

#### **3.1 Private Hire Drivers Licence Pre- Licensing Standards**

"An applicant must be over twenty-one years of age and have held a current full licence issued by the Driver and Vehicle Licensing Agency (DVLA) to drive a motorcar for not less than three years immediately prior to making the application for a driver's badge and not to have been disqualified from driving for any period of time during the three years prior to making the application.

### 3.2 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 driving offences                             | May indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally |

The full Assessment of Convictions is attached at Appendix 3.

### 4. '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 E has the above convictions and has been refused a licence by two other local authorities he is not regarded as a fit and proper person to hold a Private Hire Driver's Licence and the Council made the decision to refuse the application.

Applicant E submitted a written appeal against this decision to the Council by email on 3 February 2023. A copy is attached at Appendix 5.

## 5. 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 E 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.

## 6. Options

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

- (i) Uphold the decision to refuse 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 – Application form

Appendix 2 – Driving licence summary

Appendix 3 - Assessment of previous convictions

Appendix 4 – Information from Maldon District Council and TFL

Appendix 5 – Appeal email

### **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)

Department for Transport Statutory Taxi and Private Hire Vehicle Standards 2020

[Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

CPBC Hackney Carriage and Private Hire Policy



## Application for the grant of a Private Hire Driver's Licence

|   |                   |                   |
|---|-------------------|-------------------|
| Office use  |                   |                   |
| Date received   |                   | PHD number        |
| Name <i>[REDACTED]</i>  |                   |                   |
| Address <i>[REDACTED]</i>   |                   |                   |
| Date of birth   | phone             | email             |
| <i>[REDACTED]</i>   | <i>[REDACTED]</i> | <i>[REDACTED]</i> |
| Present occupation and employer   |                   |                   |
| Do you currently hold or have you previously held a licence with another authority? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/><br><i>If yes you may need to provide an HMRC tax check code to us</i>       |                   |                   |
| Have you ever been refused a licence or had a licence revoked or suspended? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/><br><i>If yes please give details</i>  |                   |                   |
| Please tick to confirm you have held a full DVLA licence to drive a motor vehicle for 3 years or more <input checked="" type="checkbox"/>   |                   |                   |
| Have you spent a period of 3 continuous months or more, since the age of 18 years, living or working outside the United Kingdom.<br>Yes <input checked="" type="checkbox"/> - Please provide dates      No <input type="checkbox"/> |                   |                   |
| If yes please provide evidence of a criminal record check or Certificate of Good Character from the country/countries covering the relevant period  |                   |                   |
| Is English your first language? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/><br><i>If no you will need to provide evidence of appropriate level or complete a test</i>                                       |                   |                   |

Have you ever been convicted in court or received any fixed penalty notices?  
Yes ☒ No ☐

If yes give details of all convictions, fixed penalty notices, current points on licence or any court or proceedings pending against you.

| Offence | Court                           | Date               | Penalty     |
|---------|---------------------------------|--------------------|-------------|
| C480    |                                 | 3 Apr 2022         | 6 point £40 |
| TT 99   | S.W. LONDON<br>Magistrate Court | 10 Oct 2020 - 2021 |             |

Please continue on a separate sheet if required



## Driver &amp; Vehicle Licensing Agency

## Licence summary

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

Driving licence number:

XXXXXXXXXX

Licence issue number:

14

Licence valid from:

21 September 2022

Licence valid to:

13 April 2031

Check code:

XXXXXXXXXX

This code is now invalid and cannot be used again.

Date summary viewed:

6 January 2023 11:17

## Driving Status

Expiry date: 13 April 2031

## Endorsements

2

Category: B

6

Category: B

## Endorsements

## TT99

Penalty points:

Offence date:

Expiry date:

30 June 2023

Description:

'totting-up' - if the total of penalty points reaches 12 or more within 3 years

## CU80

Penalty points:

6

Offence date:

3 April 2022

Expiry date:

3 April 2025

Description:

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



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>

An additional legislative change from the 16th December 2021 also means that drivers with B (Car) entitlement will automatically have B+E (Car & Trailer) entitlement without the need to take a B+E test. This will allow licence holders to tow a vehicle up to 3,500kg Maximum Authorised Mass (MAM).

Please note that these changes will not be reflected on current driving licences, or on any of our online services. There is no need to contact DVLA regarding this change, photocard driving licences will be updated the next time licence holders transact with DVLA.

Can drive

Provisionally drive

## 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.



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## 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         |
|--|--|
| <b>Crimes resulting in death</b>   | Never licensed   |
| <b>Exploitation</b><br><br>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.<br><br>Slavery, Child Sexual Abuse, Exploitation, Grooming, Psychological, Emotional or Financial Abuse. This is not an exhaustive list | Never licensed   |
| <b>Sexual offences</b><br><br>Conviction for any offence involving or connected with illegal sexual activity<br><br>Any applicant currently on the Sex Offenders Register or any barred list   | Never licensed<br><br>Never licensed                   |
| <b>Offences involving violence against the person</b><br><br>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 |
| <b>Possession of weapon</b><br><br>Conviction of possession of a weapon or any   | At least 7 years since completion                      |

|  |   |
|--|---|
| other weapon related offence   | of sentence imposed   |
| <b>Dishonesty</b><br><br>Conviction for any offence where dishonesty is an element of the offence  | At least 7 years since completion of sentence imposed   |
| <b>Drugs</b><br><br>Conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply<br><br>Conviction for possession of drugs, or related to the possession of drugs  | At least 10 years since completion of sentence imposed<br><br>At least 5 years since completion of sentence imposed<br>An applicant may also have to undergo drugs testing for a period at their own expense to demonstrate they are not using controlled drugs |
| <b>Discrimination</b><br><br>Conviction involving or connected with discrimination in any form   | At least 7 years since completion of sentence imposed   |
| <b>Motoring Convictions</b><br><br>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<br><br>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  |
| <b>Drink driving / driving under the influence of drugs</b><br><br>Conviction for drink driving<br><br>Conviction for driving under the influence of drugs   | At least 7 years since completion of sentence imposed<br><br>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 |
| <b>Using a hand held device whilst driving</b><br><br>Conviction for using a hand held mobile phone or device whilst driving | At least 5 years since completion of sentence imposed      |



Name: [

Authority Name: Maldon district council

- 1) Type of licence issued: Hackney Carriage No  
Private Hire No
- 2) The period of time for which the licence was held: N/A  
From:        /        /        To:        /        /
- 3) Has the licensee been subject to any warning(s) or complaint(s) during the currency of the license? N/A

Yes

No

If yes to 3 above, can you please provide further details (i.e. Date and nature of the complaint, and the sanction imposed):

- 4) Has the licence ever been suspended or revoked? N/A

Yes

No

Duration of suspension:

Reason for suspension/revocation:

Is there any other information that may assist in reaching a licensing decision, if so please provide details below:

**This person applied for a licence with this council but he failed to reach the level accepted for our pre licensing conditions as a result of having points on his licence and having previously had his licence revoked from TFL.**



benfleet | canvey | hadleigh | thundersley

Name:

Authority Name: Transport for London

1) Type of licence issued: Hackney Carriage No

Private Hire No

2) The period of time for which the licence was held: N/A

From: 15/10/2014

To: 14/10/2020

3) Has the licensee been subject to any warning(s) or complaint(s) during the currency of the license? N/A

Yes

No

If yes to 3 above, can you please provide further details (i.e. Date and nature of the complaint, and the sanction imposed):

4) Has the licence ever been suspended or revoked? N/A

Yes

No

Duration of suspension:

Reason for suspension/revocation:

Is there any other information that may assist in reaching a licensing decision, if so please provide details below:

The driver's licence renewal application was refused on 16/11/2020 due to a driving disqualification for totting up points on his DVLA licence.

Driver submitted a new Private Hire application (Ref: DAPP00574118) on 27/05/2021 which was withdrawn on 12/01/2022 because the driver failed the Topographical assessment on the second attempt.

**From:**  
**Sent:** 03 February 2023 21:53  
**To:** Licensing  
**Subject:** Re: Application for private hire licence

Dear Sir / Ma,

I hope this email finds you well, I am sending this email as an appeal to my chauffeur licence that was rejected.

I totally understand why such decisions would have been made, however I just wanted to give some context to the situation which was beyond me as at when it happened.

I have been driving since 2009 and never has any conviction until 2020 when I lost my licence due to speed camera which was accumulated points and touching my phone, was never really putting any life at risk but due to the nature of my job the clients were demanding to get to their meetings on time due to delays with traffic the speed were not dangerous driving and no life was in danger, however it is not an excuse to exceed limits on the road.

I have always had a clean background even during my service in the Army and never been convicted of any such but this is not an excuse as I take full responsibility for this. I am a very careful driver and since I left the army this has been my full time job and my only source of income to feed my family.

I will really appreciate it if this can be reviewed under appeal as a second chance for me, I can be a trusted driver on the road and my clients are safe with me.

I have learnt my lesson in all this by having a very high insurance and my goal is to be more careful and never to be put under any pressure while driving.

I look forward to hearing back from you  
 Kind Regards

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