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Angela Hutchings
Chief Executive

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Tuesday, 13th September, 11:30
Venue:	Council Offices, Council Chamber
Membership:	Councillors Acott, Greig, Palmer
Officers attending:	Jason Bishop – Corporate Legal Adviser Mrs Melanie Harris - Head of Licensing & Safer Communities
Committee Enquiries:	Loretta Hill, Ext. No. 2427

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

- 1. Apologies**
- 2. Members Interests**
- 3. Appeal against the revocation of a Private Hire Driver's Licence – Driver S**

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

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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

13 September 2022

Subject: Appeal against the revocation of a Private Hire Driver's Licence – Driver S

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

To consider an appeal received against the the decision to revoke the Private Hire Driver's Licence of Driver S.

2. Background

2.1 Driver S has been licenced by Castle Point Borough Council (the Council) as a Private Hire Driver since September 2019 and also holds a Private Hire Vehicle Licence, working for one of the local circuit operators licenced by the Council.

2.2 On 8 August 2022 the Licensing Team received a telephone call from a home owner asking us to amend our records to remove Driver S from her address as he had not lived there since she moved in on 23 June 2021 and she has no link to him. Debt collection agencies are contacting and attending her address in relation to several people who no longer live there, including Driver S. Correspondence from the Council, banks and other authorities also continues to be directed there.

This is causing her considerable distress and she is concerned that fraud is being committed.

As requested she confirmed the details in writing by email on 17 August 2022. A copy of the emailed complaint is attached at APPENDIX 1

2.3 On checking the licensing records it was confirmed that no change of address notification had been received from Driver S since 23 February 2021 when he informed the Council he had moved to the address in question.

2.4 The Conditions of Private Hire Drivers Licence within the Council's Hackney Carriage and Private Hire Licencing Policy state:

"Change of Address

A change of address must be notified within seven days to the Licensing Team at the Council. Official documents such as vehicle registration document, insurance certificate and driving licence must be presented to licensing as soon as reasonably practicable showing proof of change of address."

2.5 In addition to failing to notify the Council of his new address, Driver S has completed three separate processes with the Licensing Team since 23 June 2021 which included providing documents with his current address. None showed an updated address.

- 6 July 2021 – Replacement vehicle. Copy of signed vehicle cash hire agreement provided showing incorrect address.
- 7 September 2021 – renewal of Private Hire Vehicle Licence. Signed application form provided.
- 14 July 2022 – Replacement vehicle. Signed application form supplied.

No contact was made with the Council to explain any difficulties with the change of address process.

2.6 Driver S attended the Council Offices on 17 August 2022, was given details of the complaint and asked to provide an explanation. He admitted he was no longer at that address and had not notified the Council of the change.

He was unable to give a satisfactory explanation as to why he had not updated The Council for over a year or provided the necessary documents required by the conditions of licence.

He was unable to give a satisfactory explanation as to why he had given a false address on council application forms and provided documents showing that false address in support of those applications.

The Council's Licensing and Enforcement Officer contacted Driver S insurance company and confirmed with them that the address held on their policy was also incorrect. The company cancelled the policy immediately and provided temporary cover only for Driver S to return the vehicle home.

The Taxi Operator Driver S works for also confirmed they had been provided with an incorrect address on their records.

Driver S verbally provided a new address at the meeting but was unable to provide any documentation to verify this.

- 2.7 Driver S Private Hire Driver's Licence was revoked at the meeting on 17 August 2022. He was no longer considered a fit and proper person to hold a Licence as he had purposely given a false address and failed to meet the conditions of licence.

A copy of the revocation letter is attached at APPENDIX 2.

- 2.8 An appeal from Driver S was received by email on 18 August 2022.
A copy of the appeal email is attached at APPENDIX 3.

3. Hackney Carriage and Private Hire Licencing Policy

- 3.1 By failing to notify the Council of the change of address Driver S no longer meets the following additional conditions of licence:

Hackney Carriage/Private Hire Drivers Licence Conditions:

17. *"Licence holders must continuously maintain their Disclosure and Barring Service (DBS) through the DBS Update Service, costs associated with maintaining this subscription must be met by the licence holder. The council will use the update service to check the DBS status of drivers every 6 months."*

The accuracy of a criminal records check cannot be guaranteed without correct addresses being supplied for checking.

Private Hire Vehicle Licence Conditions:

7. *"Licence holders must produce an insurance document as may be required, specifying that the vehicle is insured for hire and reward"*

The incorrect address supplied to the insurance company rendered the private hire insurance null and void.

- 3.2 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 a hackney carriage or private hire driver's licence with immediate effect.

- 3.3 Licensing authorities have a duty to ensure that any person to whom they grant a hackney or private hire vehicle driver licence is a 'fit and proper' person to hold a licence.

In addition to failure to comply with the Hackney Carriage and Private Hire Policy the information received brings into question whether Driver S is a fit and proper person.

Whilst there is no definition of a fit and proper person, the DfT guidance suggests that the Council is effectively asking the following question:

"Without any prejudice and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?"

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

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 S 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 Council's decision to revoke the Private Hire Driver's Licence.
- (ii) Reinstatement the Private Hire Driver's Licence & Private Hire Vehicle 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 – Complaint Email

Appendix 2 – Suspension Letter

Appendix 3 – Appeal

Background Papers:

CPBC Hackney Carriage and Private Hire Licensing Policy
Local Government (Miscellaneous Provisions) Act 1976

Neil Gale

From: I
Sent: 17 August 2022 11:04
To: Licensing
Subject:

Good Morning

With reference to the letter you sent on 29th July 2022 in the name of _____ please note that anyone with the name of _____ do not live, or have any connection to the address of _____

I bought and now own the property and have lived at the property since 23rd June 2021 and I should not be receiving current letters for people that lived here over a year ago!

This is an ongoing issue with not only yourselves but a lot of debt collectors and banks. Everyone has been notified that the above named people should not still be actively using the address above as they do not reside there and it is fraud.

I understand it takes a while to change your post but it has been over a year now

Please amend your records accordingly.

If you need any further information, please do not hesitate to get in touch.

Kind regards



Castle Point Borough Council
Licensing Department
Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF
Tel: 01268 882480

Mr

17th August 2022

Dear Mr

Revocation of Private Hire Driver's Licence PHD

As you are aware, the Council have become aware of irregularities relating to the insurance of you Private Hire Vehicle 611 and pursuant to Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976 (LGMPA) your Private Hire Driver's Licence was revoked with immediate effect on 17th August.

Licensing authorities have a duty to ensure that any person to whom they grant a hackney or private hire vehicle driver licence is a 'fit and proper' person to hold a licence. The Code of Conduct for Licenced Driver's within the Council's Hackney Carriage and Private Hire Licencing Policy states:

"Licensed drivers shall, at all times when driving a licensed vehicle:

Conduct themselves in an orderly manner and with civility and propriety towards every person travelling in the vehicle and shall comply with his or her reasonable requirements."

I am writing to inform you that, after consideration of the information and further information provided by the complainants, you have not complied with that policy and are no longer deemed a 'fit and proper' person to hold a driver's licence.

Your Private Hire Driver's Licence PHD is revoked with immediate effect and you are no longer licenced by Castle Point Borough Council to drive a private hire vehicle.

Under the provisions of the LG(MP)A 1976, section 54 you are required to return your badge and plates to the Licensing Office immediately if not already done so.

Any person aggrieved by a decision of the Council to revoke a licence has the right to appeal to the Licensing Sub Committee. This appeal must be received in writing within 21 days from the date of this letter.

Yours sincerely

Melanie Harris MA BSc(Hons) MIOL
Head of Licensing and Safer Communities
01268 882480
licensing@castlepoint.gov.uk

From: !
Sent: 22 August 2022 17:22
To: Licensing
Subject: Re: Recovation of Private Hire Driver's Licence PHD

REASONS FOR GETTING MY BADGE BACK,

1. This is my only source of income.
2. I have a wife and 3 kids to support and elderly parents who rely on me for income.
3. I have debts to pay which were accrued during the covid lockdown, because a lack of income in the taxi trade.
4. My creditors are asking for their money.
5. The reasons for not changing my address i.e., my visa application was with the home office and I attempted multiple times to change my address with my banks and DVLA driver's licence which they didn't accept any other forms of I'D
6. My biometric card was with home office for renewal, So, I wasn't able to change address.

These are the reasons why I believe I deserve my licence back, please can you take my plea into consideration.

I would be very grateful if you could give my licence back as soon as possible. This is putting a big strain on my family and me.

Thanks

Mr :

From: !
Sent: 18 August 2022 15:47
To: Licensing <Licensing@castlepoint.gov.uk>
Subject: Recovation of Private Hire Driver's Licence PHD

Dear Castle Point Licensing Team,

I'm writing to inform you that I would like to appeal this decision can you please take his as formal notice.

Kind Regards