



Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF
Tel. No: 01268 882200



Angela Hutchings
Chief Executive

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Tuesday, 13th September, 11:00
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 Miss Ann Horgan – Head of Governance
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 W**

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

Agendas and Minutes can be viewed at www.castlepoint.gov.uk
Copies are available in larger print & audio format upon request
If you would like a copy of this agenda in another language or alternative format:
Phone: 0207 520 1431 or email translations@languageline.co.uk



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.

Agendas and Minutes can be viewed at www.castlepoint.gov.uk
Copies are available in larger print & audio format upon request
If you would like a copy of this agenda in another language or alternative format:
Phone: 0207 520 1431 or email translations@languageline.co.uk



When you have finished with
this agenda please recycle it.

LICENSING SUB COMMITTEE

13 September 2022

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

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 W.

2. Background

2.1 Driver W has been licenced by Castle Point Borough Council (the Council) as a Private Hire Driver since May 2019 and works for one of the local circuit operators licenced by the Council.

2.2 On 12 July 2022 the Licensing Team received details of a complaint from the mother of a young passenger regarding the conduct of Driver W during a journey taken in his Private Hire Vehicle on 3 July 2022. The complaint was initially logged with Basildon Council as the journey was taken in that area, and forwarded to the Castle Point Licensing Team to deal with once the driver was identified as being licenced by CPBC.
A copy of the complaint is attached at APPENDIX 1

2.3 Driver W attended the Council Offices on 15 July, was given details of the complaint and asked to give an account of what happened. Driver W denied behaving innappropriately or that he was at fault. He gave a differing account of the incident, indicating that the passenger had initiated the personal contact and that the journey had been paid in cash.

2.3 Driver W's Private Hire Driver's Licence was suspended on 15 July to enable the Council to carry out further enquiries.
A copy of the suspension letter is attached at APPENDIX 2.

2.4 Driver W submitted an email to the Licensing Team on 17 July stating that he accepted some fault but not 100% regarding the incident and requesting that the Council allow him to continue working.
A copy of the the email is attached at APPENDIX 3.

- 2.5 A full account from the passenger was submitted in writing to the Licensing Team on 20 July. This is attached as APPENDIX 4.
- 2.6 Driver W's Private Hire Driver's Licence was revoked on 20 July 2022 as he had not complied with the Council's Hackney Carriage and Private Hire Policy and was no longer considered a fit and proper person to hold a licence. A copy of the revocation letter is attached as APPENDIX 5.
- 2.4 An appeal from the legal representative of Driver W was received on 29 July 2022.

3. 'Fit and Proper'

- 3.1 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."

- 3.2 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.'

- 3.3 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.

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

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 W 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) Reinstate the Private Hire Driver's Licence & Private Hire Vehicle Licence

Recommendation:

The decision of the Sub Committee is required following proper consideration of the report and any representations made to the Sub Committee.

Appendices

- Appendix 1 – Complaint Email
- Appendix 2 – Suspension Letter
- Appendix 3 – Email from Driver
- Appendix 4 - Email from complainant
- Appendix 5 – Revocation Letter

Background Papers:

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

From: icmforms.noreply@basildon.gov.uk <icmforms.noreply@basildon.gov.uk>
Sent: 04 July 2022 10:00
To: EHS <EHS@basildon.gov.uk>
Subject: Website Form Submission: Hackney Carriage Complaint

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Form Submission

Date of Complaint:

03/07/2022
18.12

Complaint:

My young daughter took a taxi from Basildon to Home at , Benfleet. The driver was asking inappropriate questions, including do you have a boyfriend, how old are you (she told him 17 in the hope it would stop his behaviour, she is actually 18) he told her he was 32 and asked her on a date. She was visibly shaking

and upset when she got out. She said his whole demeanour was worrying and creepy and made her feel uncomfortable, the vehicle smelt and was dirty and she felt very scared and vulnerable. When she finished her journey he waived the fare. I did report it to the cab company as soon as she got in as she was so upset. She is now so worried as he knows where she lives. This really has effected her. I would like the reassurance and confirmation that this matter is taken seriously and dealt with accordingly. I am prepared to report this to the police if necessary. I need to be able to restore my daughters faith in taking a taxi from Basildon to home after work as she has done on several occasions previously with no issue.

' The cab company would not provide his name when I called and do not provide the drivers name by text as our local cab company does

15th July 2022

Dear

Suspension of Private Hire Driver's Licence PHD

Thank you for attending the offices on Friday 15th July 2022. Following your meeting with The Council's Licencing and Enforcement Officer I am writing to confirm the actions taken.

We have received a complaint regarding your conduct towards a passenger and pursuant to Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976 (LGMPA) your Private Hire Driver's Licence was suspended with immediate effect and you are not licenced to drive for private hire while the suspension is in place.

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."

We are carrying out further enquiries and will notify you in writing of the outcome within 28 days.

Yours faithfully



Melanie Harris MA BSc(Hons) MIOL
Head of Licensing and Safer Communities
01268 882369 (Direct line)
licensingunit@castlepoint.gov.uk

To whom it may concern

Dear Sir/Madam

My name is PHDC

My current PHD driver license has been suspended due to an inccedent happen on sunday, i am shameful about the incedint happen on sunday, and i agree that i had some fault but not 100%, therefore I apology to my Complaine-nant and much respect for my Complaine-nant and I promise i would never make same mistake ever again.

i am a person with good character, during corona virus pandemic I offered to give 50%(A&b) fare deduction to all NHS worker and has been working continuously throughout pandemic, this is something I feel proud of that I was able to help contribute towards country's difficult time.

I am hard working person, I have always been working hard throughout the pandemic and never claim any grant or benefit, I do not want to be a burden for the country by claiming benefit, i would rather work hard, pay tax and contribute for country's economic growth.

Now I am mentally and emotionally broken down, my family (wife, son) are mostly depends on my income, therefore I would like to request honorable licensing authority to give me a permission to work continuously as a private hire taxi driver. I have been good driver for you, and I will be. I would never break your trust in future, I promised.

I hope your kind concederation and hear from you soon.

Kind regards

17/07/2022

From:
Sent: 20 July 2022 15:23
To: Neil Gale

Dear Neil,
This is the account of what happened.

I phoned a cab using [redacted] The cab arrived around 6:15. I got into the cab, and the majority of the ride was normal, usual conversations. However, he told me his age and he asked me my age. I told him that I was 17, he said he was 32. He then asked if I had a boyfriend, to which I replied yes. I said this to stop any potential questions. I then asked how his wife was, to which he replied "I don't have one, I'm single". I said okay and ended the conversation there. He carried this conversation on by asking if we should go on a date some time. I answered this with "no thank you" towards the end of the journey, he kept persisting and saying that he could take me out, asking when I was free. I kept answering these questions with no. I told him I was still at college. As we ended the journey, he asked, as he had before around twice, if I would take his number. We pulled up at my house, he handed me a card with his number on it. I put this card on the seat next to me, making sure he saw this. He told me that I wouldn't have to pay the fare, and that if I ever needed a cab he would do it for free. I continued to ask him how much it would be, I never carry cash so I intended to pay by card. He told me I didn't need to, and as I put the card with his number on the seat, left the car and walked as quickly as I could to my front door. At the start of this journey, I looked for the castle point card that all cab drivers have usually somewhere at the front, as I've been told by my ex partners dad (also a cab driver) to look for whenever I enter a cab, so I know the drivers name in case anything should happen. I did not see one. I didn't know this man's name, as it was never on the booking confirmation.

This all made me feel very vulnerable and scared. When I got out of the cab I was shaking. It made me feel sick as he wouldn't take no for an answer. I felt uncomfortable and worried because he now knew where I lived. I felt very pressured into taking his number, thankfully I didn't.

If any more information is required, I would be more than happy to write a statement.

Thank you,

20th July 2022

Dear Mr

Revocation of Private Hire Driver's Licence PHD

As you are aware, the Council has received a complaint regarding your conduct towards a passenger and pursuant to Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976 (LGMPA) your Private Hire Driver's Licence was suspended on 15th July while further enquiries were made. Those enquiries have now been completed and further evidence has been received.

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 Licensing 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 PHD683 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