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

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Friday, 6<sup>th</sup> January 2023 at 11:00</b>
<b>Venue:</b>	<b>Council Offices, Council Chamber</b>
<b>Membership:</b>	<b>Councillors Acott, Savage and Walter</b>
<b>Officers attending:</b>	<b>Jason Bishop – Corporate Legal Adviser Benjamin Badura – Legal Adviser 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 L**

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**

**6 January 2023**

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

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

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**1. Purpose of Report**

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

**2. Background**

Applicant L applied for a Private Hire Driver's Licence in September 2022. The Council refused to progress the application on review of his Disclosure and Barring Service (DBS) certificate because Applicant L has the following convictions and the Council did not consider him a fit and proper person to hold a licence as a professional driver:

Date of conviction: 16 December 2020

Offence: Fail to cooperate with the provision of a specimen of breath – Preliminary Test – Motor Vehicle Offence

Disposal: Fine £60.00 Driving Licence Endorsed 4 penalty points Victim Surcharge £32

Date of Conviction: 25 June 2014

Offence 1 : Fail to notify change of circumstances affecting entitlement to benefit / other payment

Offence 2 : Fail to notify change of circumstances affecting entitlement to benefit / other payment

Disposal: Community Order 24/06/2015

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

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'**

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.

The DFT Assessment of Convictions is attached at Appendix 3.

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 L has been convicted of the above offences 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 to progress the application.

Applicant L submitted a written appeal against this decision to the Council by email on 8 December 2022. A copy is attached at Appendix 4.

#### **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 L 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 - DFT Assessment of Convictions

Appendix 4 – Appeal request

**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 \(www.gov.uk\)](https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards-2020)





Disclosure &  
Barring Service

Police Records of Convictions and Cautions

CONVICTION DETAILS

Conviction: 1

Date of Conviction: 25 JUNE 2014

Court: BLACK COUNTRY MAGISTRATES

Offence:

1

FAIL TO NOTIFY CHANGE OF CIRCUMSTANCES AFFECTING ENTITLEMENT TO BENEFIT/ OTHER PAYMENT  
ON 19 SEPTEMBER 2011

SOCIAL SECURITY ADMINISTRATION ACT 1992 S 112(1A)+S.112(2)

Disposal:

COMMUNITY ORDER 25/06/15

UNPAID WORK REQUIREMENT 100 HRS WITHIN NEXT 12 MONTHS

2

FAIL TO NOTIFY CHANGE OF CIRCUMSTANCES AFFECTING ENTITLEMENT TO BENEFIT/ OTHER PAYMENT  
ON 19 SEPTEMBER 2011

SOCIAL SECURITY ADMINISTRATION ACT 1992 S 112(1A)+S.112(2)

Disposal:

COMMUNITY ORDER 24/06/15

UNPAID WORK REQUIREMENT 100 HRS WITHIN NEXT 12 MONTHS

VICTIM SURCHARGE 60.00

COSTS 500.00

Conviction: 2

Date of Conviction: 16 DECEMBER 2020

Court: STAFFORDSHIRE MAGISTRATES COURT MAGISTRATES

Offence:

1

FAIL TO COOPERATE WITH THE PROVISION OF A SPECIMEN OF BREATH - PRELIMINARY TEST - MOTOR  
VEHICLE OFFENCE

ON 05 NOVEMBER 2019

ROAD TRAFFIC ACT 1988 S 6(4)

Disposal:

FINE 60.00

DRIVING LICENCE ENDORSED 4 PENALTY POINTS

COSTS 135.00

VICTIM SURCHARGE 32.00

Information from the list held under Section 142 of the Education Act 2002

NONE RECORDED

DBS Children's Barred List Information

NONE RECORDED

DBS Adult's 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

DBS CERTIFICATE EVIDENCE OF IDENTITY

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

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

Office use		
Date received		PHD number
Name		
Address		
Date of birth	phone	email
Present occupation and employer SELF EMPLOYED		
Do you currently hold or have you previously held a licence with another authority? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <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"/> <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.  Yes <input type="checkbox"/> - Please provide dates No <input checked="" 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"/> <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
DR70	Walsall Magistrates Court	05/11/2019	4 penalty points £60.00 fine

*Please continue on a separate sheet if required*

If any person knowingly or recklessly makes a false statement or omits any material particularly when giving information under this section, they shall be guilty of an offence.

Signed	Date
	01/09/22

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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>  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.  Slavery, Child Sexual Abuse, Exploitation, Grooming, Psychological, Emotional or Financial Abuse. This is not an exhaustive list	Never licensed
<b>Sexual offences</b>  Conviction for any offence involving or connected with illegal sexual activity  Any applicant currently on the Sex Offenders Register or any barred list	Never licensed  Never licensed
<b>Offences involving violence against the person</b>  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>	



Conviction of possession of a weapon or any other weapon related offence	At least 7 years since completion of sentence imposed
<b>Dishonesty</b>  Conviction for any offence where dishonesty is an element of the offence	At least 7 years since completion of sentence imposed
<b>Drugs</b>  Conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply  Conviction for possession of drugs, or related to the possession of drugs	At least 10 years since completion of sentence imposed  At least 5 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>Discrimination</b>  Conviction involving or connected with discrimination in any form	At least 7 years since completion of sentence imposed
<b>Motoring Convictions</b>  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  Applicants with multiple motoring convictions	May indicate 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>  Conviction for drink driving  Conviction for driving under the influence of drugs	At least 7 years since completion of sentence imposed  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>  Conviction for using a hand held mobile phone or device whilst driving	At least 5 years since completion of sentence imposed



dear sir/madam

I am writing in response to case reference :283288

On the 5<sup>th</sup> of November 2019 I was driving my vehicle with my son who was 5 years old at the time, when I was stopped by two officers, I believe to be road traffic police and was asked to take a specimen of breath, I replied to the officer asking for a reason why I was stopped in the vehicle when I was fully licenced. The vehicle was taxed and I had a up to date MOT, the officer replied that it was a routine check and the vehicle had been flagged on their system. At this point I was disputing with the officer the reason for pulling me over and requesting a sample as I was not aware of any problems with the car and I was driving correctly. The officer took my dispute as a refusal and I was taken to the police station after arriving to the police I offered to give a sample to the officer to show my innocence and explained I was just disputing why I was pulled over, but the officer said it was too late and I was given the chance.

I do not do drugs and I rarely drink alcohol and at the time I was overcoming a heart failure illness of which I had in march earlier that year and I was on medication. I was trying to explain this to the officers at the time as I would not be taking drugs or alcohol in such dangerous circumstances. I was suffering with anxiety and depression from my recent illness, my head was not in right place at the time. I will attach copy of medical records as proof of this.

Looking back at this situation I see I could have handled things differently at the time but I just felt really upset and victimised that I was being stopped and harassed for no reason. On top of my illness things just really got the better of my mental health at the time and I acted out of character and if anything like this was to happen again, I would handle the situation more appropriately.

I hope you will take into account all of the above and understand this is not a true representation of my character, and would not happen again.

Kind regards

I



Private and Confidential  
25-MAY-2019  
Clinic Date: 21 MAY 2019  
MRN: 5219361

Croydon University Hospital  
530 London Road  
Croydon  
CR7 7YE  
Switchboard Tel: (020) 8401 3000

Dr Jayanthan Manoharan

Dear Dr Manoharan

Re:

Date	Description	Confirmation
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#### Cardiomyopathy Clinic

**Diagnosis:** Myocarditis - with recovered LV function and residual scar

**Past Medical History:** Fit and well until the acute presentation in February 2019

**Current Presentation:** admitted with acute myocarditis, referred to cardiomyopathy clinic for FU

**Symptoms:** persistent shortness of breath after the acute event. It has improved since, but exertional breathlessness persists. NYHA II. There are 'good days and bad days'

**Co-morbidities and cardiovascular risk factors:** GH used in the past and from January previous the presentation with acute myocarditis. I have explained that this could have caused the acute event and I strongly advised to stop the supplement!

**Family history:** one cousin had a stroke (?). No sudden deaths in immediate family, for what he known. No family history in keepings with DCM. He has 7 between brothers and sister, he is the second. Father died (MS and DVT), mother is alive and well

**ECG:** SR, minimal ST abnormalities likely in keeping with the recent myocarditis

**CMR in the acute setting (March 2019):** LV size upper limit of normal, EF 46%. Evidence of acute oedema and myocardial scar

**CMR (May 2019)** Non-dilated LV with EF of 55%. Normal RV and normal atria. No oedema. Residual epicardial and mid-wall LGE in the inferolateral segment s

**Objective examination:** euvolemic, chest clear

**Current Therapy:** bisoprolol 1.25 mg and Ramipril 2.5 mg

**Impression:** Myocarditis with recovered LV function and residual scar , possibly related to GH use.

**PLAN**

- Continue current therapy until the end of 2019, then stop and repeat and echo (free of medication in April-May 2020)
- Please ECG 24 Holter and ETT early next year (prior the appointment) to assess functional capacity off medication and exclude arrhythmias. (off Beta-blocker)
- FU in Cardiomyopathy clinic after the repeat echo ( 1 year from now please)
- Do not take GH. Lyfe stile advice and exercise advise given

Yours sincerely,

**Dr Teresa Castiello**

**Consultant Cardiologist**

*Lead of Heart Failure and Cardiomyopathy, Croydon Health Services*

*Cardiac MRI Consultant Kings College Hospital*

**CC:**

