



APPEAL AGAINST REVOCATION OF PRIVATE HIRE LICENCES

1 PURPOSE OF REPORT

- 1.1 To consider an appeal against the suspension of Private Hire Licences.

2 LINKS TO COUNCIL'S PRIORITIES AND OBJECTIVES

- 2.1 This report relates to Economy and Growth, People and Place

3 RECOMMENDATION

- 3.1 The decision of the Drivers' Panel is required following proper consideration of the appeal and any representations made to the Panel.

4 INTRODUCTION

- 4.1 Driver M has held a Restricted Private Hire Driver's Licence, Restricted Private Hire Vehicle Licence and a Private Hire Operator's Licence issued by Castle Point Borough Council since 15 December 2020.
- 4.2 Following a routine check of Disclosure and Barring Service (DBS) status on 17 January 2024 a change to Driver M's criminal record was detected and contact made by the Licensing Team to confirm details of the change. Driver M confirmed he had received a caution for a drugs offence.

A copy of the DBS certificate check result is attached at **Appendix A**.

5 CASTLE POINT HACKNEY CARRIAGE AND PRIVATE HIRE LICENCE CONDITIONS

- 5.1 The Hackney Carriage and Private Hire Licensing Policy was adopted to maintain the safety of public transport vehicles, drivers and paying customers. Failure to abide by the requirements of the Policy puts the safety of drivers and passengers at risk.

In order to protect the public the Council can only support licensed drivers that are reliable and of good standard and therefore a person being considered for a licence will need to satisfy all aspects of the Council's pre-licensing

standards before obtaining a licence **and** maintain these throughout the lifetime of the licence.

Assessment of Previous Convictions

- 5.2 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 drugs offences:

Offence	Elapsed period before licence should be issued
<p>Drugs</p> <p>Conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply.</p> <p>Conviction for possession of drugs, or related to the possession of drugs</p>	<p>At least 10 years since completion of sentence imposed.</p> <p>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.</p>

For the purposes of licensing convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction.

The Hackney Carriage and Private Hire Licensing Policy states:

“In assessing the applicant as a fit and proper person, all spent convictions, fixed penalty notices and cautions may be taken in consideration to promote public safety. Since 1 April 2003 taxi drivers are included within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 SI 300 no 965 and all previous convictions remain and have to be considered. Therefore you must disclose all previous cautions and convictions whether they are “spent” or not. You should have regard to the Council's Convictions' Policy. Any conviction or caution that is relevant to the determination of whether you are a fit and proper person to hold a licence will be taken into consideration when determining the application.

Under the Department for Transport's (DFT) Statutory Taxi and Private Hire Vehicle Standards Driver M would be eligible for licensing in **September 2028** (5 years since the latest caution)

A copy of the Convictions Policy is attached at **Appendix B**.

Notification of Convictions and Endorsements

5.3 The Hackney Carriage and Private Hire Licensing Policy states:

“Licence holders are required to notify Licensing in writing or by electronic means within 48 hours of an arrest and release, interview under caution, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. Other convictions, **cautions**, penalty points and driving offences recorded must be reported to Licensing in writing or by electronic means within seven days of the event.”

The Licensing Team did **not** receive any notifications from Driver M.

6 ACTIONS TAKEN

Suspension of Licences

6.1 Following the change to his DBS status Driver M was advised on 17 January 2024 that his licences would be suspended with immediate effect and the Council would need to see a new enhanced DBS certificate to review the new entries before making a decision to permanently revoke the licences.

Driver M returned all licences to the Council as requested on receipt of the letter.

A copy of the suspension letter is attached at **Appendix C**.

The legislation relating to the suspension and revocation 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 new Enhanced DBS certificate dated 10 June 2024 was submitted by Driver M on 20 June 2024.

The new entries recorded are:

Date of Caution: 28 July 2023

Offence: Possessing Controlled Drug – Class A- Cocaine on 28 April 2023.
Misuse of Drugs Act 1971 S.5 (2)

Date of Caution: 20 September 2023

Offence: Aid & Abet / Possessing Controlled Drug - Class A- Cocaine on 28 April 2023.
Misuse of Drugs Act 1971 S.5 (2)

The new entries on Driver M's DBS confirm he no longer meets the Council's Licensing Conditions and is not considered fit and proper to hold a licence.

The Enhanced DBS Certificate is attached at **Appendix D**.

Fit and Proper

- 6.2 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?

The definition was supported in the judgment 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.'

Appeal Received

- 6.3 The Council's Hackney Carriage and Private Hire Licensing Policy allows that an appeal can be made within 28 days against a decision to suspend or revoke a licence.

Driver M confirmed he would appeal a revocation and submitted an email on 26 January 2024 with some background information about the offence and a second email on 20 June 2024 with further information for consideration.

The emails are attached at **Appendix E**.

- 6.4 This Panel was convened to consider the revocation once the new DBS certificate was received.

7 OPTIONS

- 7.1 Option 1: Dismiss the appeal and revoke the Private Hire Licences. Driver M would be eligible to reapply in September 2028.
- 7.2 Option 2: Dismiss the appeal and revoke the Private Hire licences but set a bespoke time when Driver M would be eligible to reapply.
- 7.3 Option 3: Accept the appeal and reinstate the Private Hire Licences immediately.

8 CRIME AND DISORDER IMPLICATIONS

- 8.1 The Hackney Carriage and Private Hire Licensing Policy was adopted to maintain the safety of public transport vehicles, drivers and paying customers. Failure to abide by the requirements of the Policy may put the safety of drivers and passengers at risk.

9 ENVIRONMENTAL IMPLICATIONS

- 9.1 None.

10 FINANCIAL IMPLICATIONS

- 10.1 There are no financial implications outlined in this report; however, as in all cases that could lead to a Magistrates Court appeal which could be upheld, financial costs could then be incurred by the Council.

11 LEGAL IMPLICATIONS

- 11.1 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 Drivers' Panel. It should be noted that Driver M has the right to appeal the decision made by the Council to the Magistrates Court if he is aggrieved by the decision of the Panel.

12 HUMAN RESOURCES IMPLICATIONS

- 12.1 None.

13 EQUALITY AND DIVERSITY IMPLICATIONS

- 13.1 An Equality Impact Assessment has not been completed as no decision is being made which would cause an impact.



Janette Parker-East

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Background Papers: -

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

Appendices: -

Appendix A – DBS certificate check result

Appendix B – CPBC Convictions Policy

Appendix C – Suspension letter dated 17 January 2024

Appendix D - Enhanced DBS Certificate

Appendix E – Emails from Driver M dated 26 January 2024 and 20 June 2024

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