



Minutes of the Drivers' Panel Hearings held on 9 July 2024 when there were present: -

Cllr P Greig	Chairman
Cllr D Jones	
Cllr B Palmer	
Cllr L Dixon	Observing

APOLOGIES FOR ABSENCE

There were none.

OFFICERS PRESENT

J Parker-East	- Assistant Director, Environmental Health, Licensing & Community
H Collins	- Licensing Officer
A Azono	- Assistant Solicitor
L Piatto-Hill	- Governance Officer (Minutes)

APPLICANT – G 10.30 AM

1 APPOINTMENT OF CHAIRMAN

Councillor Greig was appointed Chairman.

2 DECLARATIONS OF INTEREST

There were none.

3 PROCEDURE FOR THE SUB-COMMITTEE

Introductions were made and all parties noted the procedure to be followed during the hearing, as set out in Item 3 of the Agenda.

4 REPORT OF THE ASSISTANT DIRECTOR OF ENVIRONMENTAL HEALTH, LICENSING AND COMMUNITY

The Licensing Officer presented their report on an application to consider an appeal against the revocation of a Private Hire Licence by Driver G.

Driver G had held a Restricted Private Hire Driver's Licence issued by Castle Point Borough Council since 11 December 2023. All Private Hire Driver's Licences are issued over a 3-year period with a fixed expiry of 30 June 2024.

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After receiving details of the process for renewal of the licence from CPBC Driver G informed the Licensing Team by email on 29 May 2024 of an accumulation of 12 points on their DVLA Driver's Licence which had resulted in a 6-month disqualification from 4 January to 4 July 2024.

The details of current endorsements on Driver G's licence were set out on pages 1 and 2 of the officer's report, together with the DVLA Licence Summary at Appendix B.

Totting up TT99 licence disqualified accumulation leading to the offence.

The Council's Hackney Carriage and Private Hire Licensing Policy requires certain standards to be satisfied in order to protect the travelling public. The Pre-Licensing Standards include the following two requirements:

"Not to have been disqualified from driving for any period of time during the three years prior to making the application."

"Not to have been convicted of three or more motoring offences in the previous three years."

The Council's Hackney Carriage and Private Hire Licensing Policy clearly states that licence holders are required to notify the Council in writing or by electronic means within 7 days of any driving offences, penalty points, or other convictions.

The licensing team was not notified of additional endorsements since completion of the application form, or at the time of the disqualification from driving by Driver G.

Following the notification regarding the driving licence disqualification Driver G no longer met the Council's Licensing Standards and was no longer considered a fit and proper person to hold the licence. The Private Hire Driver's Licence was revoked with immediate effect; therefore, Driver G no longer met the Council's guidelines.

The following options were available to the Panel:

- Option 1: Dismiss the appeal and uphold the decision to revoke the Private Hire Driver's Licence. Driver G would be eligible to reapply in July 2027.
- Option 2: Dismiss the appeal and uphold the decision to revoke the Private Hire Driver's licence but set a bespoke time when Driver G would be eligible to reapply.
- Option 3: Accept the appeal and reinstate the Private Hire Driver's Licence immediately.

The Panel Members and representatives were invited to ask questions of the Licensing Officer. There were none.

5 THE APPLICANT'S SUBMISSION

Driver G explained the circumstances behind the totting up points; they had only been travelling slightly above the legal speed limits. They emphasised that they had been driving for 40 years for corporate companies and had never had more than 3 points on their driving licence. Just before the issue of the speeding fine they had been made redundant, and during the last 6 months had been trying to get a job, which had been unsuccessful. Driver G was supporting their family and children.

It was also noted that one of the fines had no licence points against it. In response to Panel Members' questions, Driver G advised that they didn't know why the points weren't showing against the conviction offence on 23 May 2023 and apologised for not informing the Licensing Team at the time of the conviction. They stated that they should have read the rules and regulations but didn't think they needed to notify the Council as they weren't driving at the time and thought they could do so on 30 June when the licence was due for renewal.

The Panel also sought clarity around why the penalty was showing as 'ongoing' on the application form. Driver G explained that this was because at the time of their licence application a decision had not been made on the fine; it had subsequently been determined.

Driver G advised that they drove for an insurance company using a hire car and that the last speeding fine in May was not received until October, meaning there was a gap. The vehicle went back to the lease company and the driver didn't know they would receive 12 points on their licence.

6 ADJOURNMENT

The Panel adjourned to consider its decision.

7 DECISION

In reaching its decision, the Drivers' Panel gave due regard to the Council's Licensing Policy, the Local Government (Miscellaneous Provisions) Act 1976 and the guidelines relating to the application of the "fit and proper person" test.

Resolved

To dismiss the appeal and uphold the decision to revoke the Private Hire Driver's Licence. Applicant G would be eligible to reapply in July 2027.

8 CONCLUSION

The Chairman concluded the hearing.

The Panel hearing commenced at 10.30 am and ended at 11.15 am.

APPLICANT - M 12.00 PM

9 PROCEDURE FOR THE HEARING

Introductions were made and all parties noted the procedure to be followed during the hearing, as set out in Item 3 of the agenda.

10 REPORT OF THE ASSISTANT DIRECTOR OF ENVIRONMENTAL HEALTH, LICENSING AND COMMUNITY

The Licensing Officer presented their report on an application to consider an appeal against the revocation of a Private Hire Licence by Driver M.

Driver M had held a Restricted Private Hire Driver's Licence, Restricted Private Hire Vehicle Licence and a Private Hire Operator's Licence since 15 December 2020 and didn't undertake any circuit work within the Council's area. DBS checks were carried out regularly. The driver's DBS status changed due to a caution for a drugs offence. The driver was advised that the Council would need to see a new enhanced DBS certificate to review any new entries prior to determining whether or not their licences would be revoked. The driver produced a new Enhanced DBS certificate on 20 June which recorded two new entries relating to drugs offences.

The driver would be eligible to reapply for their licences in September 2028. In addition, the Council's Policy requires drivers to report to the Council any caution within 7 days. However, no such notifications were received and accordingly the driver's licences were suspended.

It was noted that, since publication of the agenda and reports, an email had been received from the Police addressed to Driver M regarding Police Caution Confirmation; this was shared with and read by Members of the Panel.

It was noted that the Police had confirmed that the caution related solely to 28 April 2023.

The following options were available to the Panel:

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

The Panel Members and representatives were invited to ask questions of the Licensing Officer. There were none.

11 THE APPLICANT'S SUBMISSION

Last April they had a gathering; drugs were subsequently found following a party

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with friends at their address. The driver claimed that this was out of their control and apologised that this had happened. Unfortunately, by law a simple caution is recorded once an offence is admitted. They had asked the police at the time how this would affect their work. The Police had advised that someone had to be responsible for the fact it was found. Driver M didn't think they needed to notify the Council as they thought licences were checked every 6 months; that was what a former Licensing Officer had explained at the time of issuing their licences. Driver M apologised again, if something was incorrect and emphasised that the drugs that had been found at their home weren't theirs. Driver M stressed that they did not take drugs, rarely drank; taxi driving was their livelihood. Driver M also informed the Panel Members that their mother was suffering with cancer and they found themselves in an awful horrible situation.

The Licensing Officer confirmed that DBS checks are carried out every six months; however, in this instance there had been a delay in the DBS coming back.

In response to Panel Members' questions, it was noted that the police were called to the driver's home due to a noise complaint from a neighbour. The police arrived the day after the party had taken place and the drugs were found in a kitchen cupboard.

In response to a question relating to the driver not being aware of the requirements of the licensing conditions, the driver confirmed that they understood the importance of reading the licensing conditions and stated that they should have read them in depth. Driver M apologised and emphasised that the situation was out of their control as they had been put in a vulnerable position by friends. Since this had happened, they had not had anyone come to their home.

12 ADJOURNMENT

The Panel adjourned to consider its decision.

13 DECISION

In reaching its decision the Drivers' Panel gave due regard to the Council's Licensing Policy, the Local Government (Miscellaneous Provision) Act 1976 and the guideline by the Department for Transport's (DFT) Statutory Taxi and Private Hire Vehicle Standards (July 2020), as adopted by the Council in November 2020. The Licensing Drivers' Panel applied the guidance on assessment of previous convictions relating to the conviction for possession of drugs or related to the possession of drugs, which states that the elapsed period before licences should be issued is at least 5 years since completion of any sentence imposed.

For the purposes of licensing convictions a caution is regarded in exactly the same way as a conviction.

The Human Rights Act was borne in mind whilst making the decision.

Resolved

To uphold the Council's Hackney Carriage and Private Hire Pre-Licensing Standards which state that in assessing the applicant as a fit and proper person,

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all spent convictions, fixed penalty notices and cautions may be taken into consideration to promote public safety.

14 CONCLUSION

The Chairman concluded the hearing.

The Panel hearing commenced at 12 pm and ended at 1.15 pm

Chairman:

Date:

DRAFT