



## Minutes of the Drivers' Panel Hearing held on 14 August 2024 when there were present:-

Cllr J Knott	Chairman
Cllr B Palmer	
Cllr L Dixon	
Cllr J Huntman	Observing

## APOLOGIES FOR ABSENCE

There were none.

## OFFICERS PRESENT

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

## 15 APPOINTMENT OF CHAIRMAN

Councillor J Knott was appointed Chairman.

## 16 DECLARATIONS OF INTEREST

There were none.

## 17 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.

## 18 REPORT OF THE ASSISTANT DIRECTOR, ENVIRONMENTAL HEALTH, LICENSING AND COMMUNITY

The Licensing Officer presented their report on an application to consider an appeal against refusal of a Private Hire Driver's Licence.

The application submitted to be licensed by this Council is contained at **Appendix 1** to the report.

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Identification checks were made at the Council offices following receipt of the appellant's application on Wednesday, 5 June 2024 during which they readily declared that they had a conviction for an assault occasioning actual bodily harm for which they were sentenced at the Crown Court on 16 May 2019 and was ordered to carry out 80 hours of community service. The DBS check revealed the conviction.

The Council's Licensing Department assessed the application to determine whether the appellant was considered to be a 'fit and proper person' to hold a licence. The Licensing Officer wrote to the appellant on 10 July 2024 confirming that they were unable to grant a licence and set out the reasons within the body of the letter (**Appendix 2**).

The decision was appealed and the letter outlining their reasons for the appeal is contained at **Appendix 3** of the report.

The appellant presented to the Panel a number of references in support of their application to become a licensed private hire driver.

The Department of Transport Statutory Guidance Taxi & Private Hire Vehicle Standards (November 2022), paragraph 5.5 relating to Criminal Convictions states:-

*"In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.*

*In order to achieve consistency and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records (Appendix 2 to the current Hackney Carriage and Private Hire Licensing Policy). This should include, for example, which offences would prevent an applicant from being licensed regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence."*

The case of *McCool-v-Rushcliffe Borough Council* (1998) Lord Bingham gave a clear definition of the test referring to private hire vehicles which equally applies to Hackney Carriage drivers when he stated that:

*"One must it seems to me approach this case bearing in mind the objectives of this licensing regime which is plainly intended among other things to ensure as far as possible that those licensed to drive private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers".*

The Institute of Licensing on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades places emphasis on the key role

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that the licensing function plays in ensuring public safety and endorses the principles set out in the judgement by Lord Bingham.

The following options were available to the Panel:

- 1. To determine that the appellant is not a fit and proper person to hold a Private Hire Driver's Licence OR,
- 2: To determine that the appellant is a fit and proper person to hold a Private Hire Driver's Licence.

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

The appellant explained that there were mitigating circumstances, stating that they attended a party at which a man present (who was unknown) kept bothering the appellant's partner and wouldn't stop when asked to. Following this there was pushing and shoving between them and then the appellant left the party.

The following day they received threats at work and the same afternoon they received a call from the police and the situation progressed. The case went to court and it came to light that the same man had behaved similarly with another woman. The court found the appellant guilty and they received a fine of £1k and was ordered to undergo community service.

The appellant explained that they did not have any anger issues and stressed that they had a strict understanding of rules and of the position this put them in; this was not the person they were.

During questions of the panel, the Licensing Officer stated that there were flaws in the investigation and references had been supplied.

The Panel adjourned to consider its decision.

In reaching its decision, the Drivers' Panel gave due regard to the Council's Hackney Carriage and Private Hire Licensing Policy, the Department of Transport Statutory Guidance Taxi & Private Hire Vehicles Standards (Nov. 22), the Local Government (Miscellaneous Provisions) Act 1976 and the guidelines relating to the application of the 'fit and proper person'. It determined that the private hire driver's licence should be granted; however, any future infringements, however minor, would be brought back to Panel and could result in revocation of the licence.

### **Resolved**

To grant the Private Hire Driver's Licence.

The Chairman concluded the hearing.

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The Panel hearing commenced at 10.30 am and ended at 11.10 am.

Chairman: .....

Date: .....